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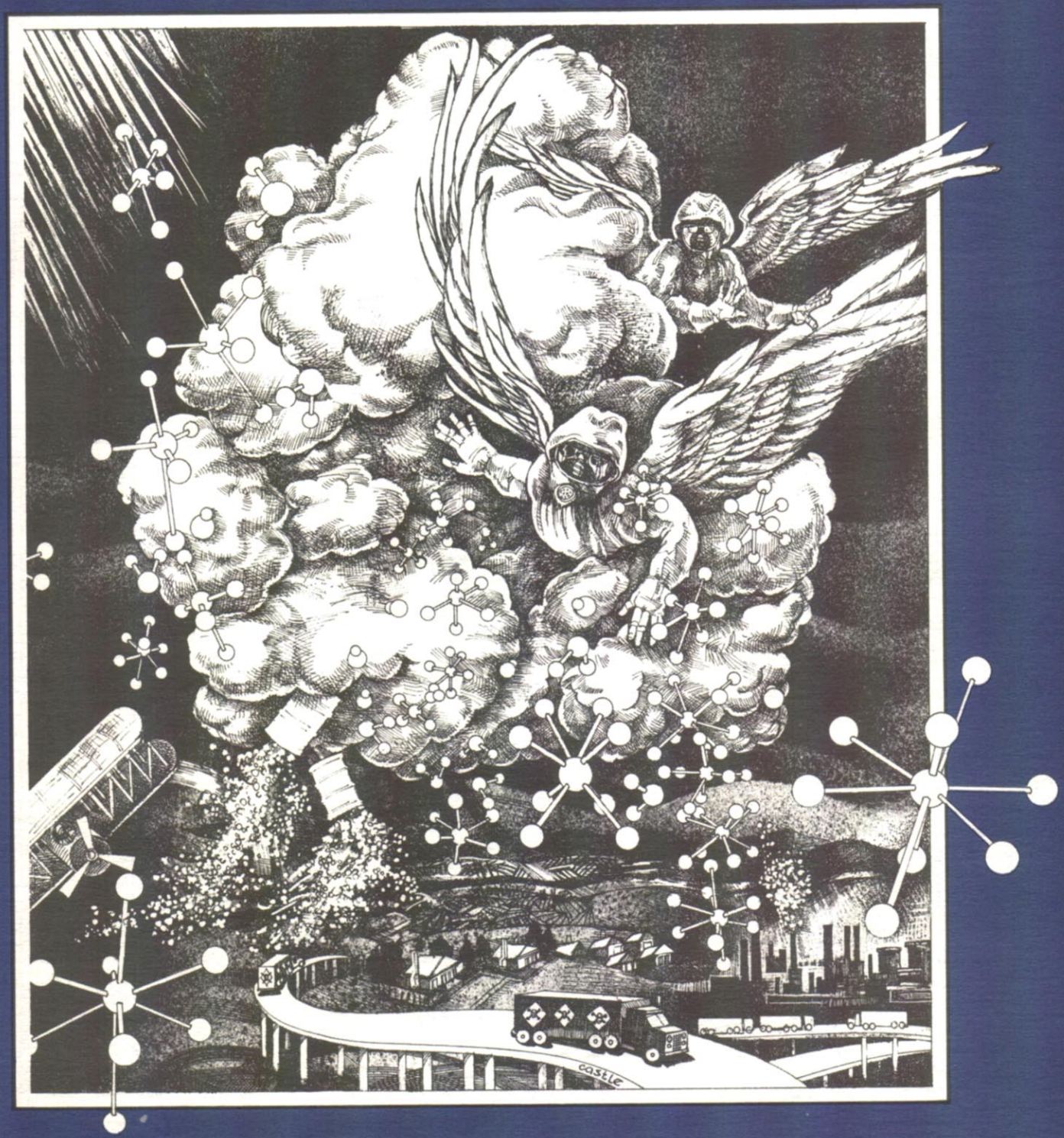
California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS

TOXIC-CHEMICAL STORM OVER CALIFORNIA



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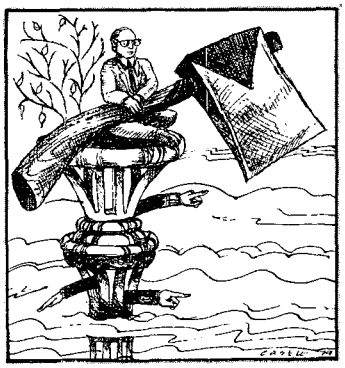
Personal

PERSPECTIVE

By Ed Salzman



The power to destroy

How significant was the coup that will result in the departure of Martin Huff as the executive officer of the Franchise Tax Board?

Does it merely mean, as indicated by State Controller Ken Cory, that hereafter the state will have a tax collector accountable to three officials elected by the public instead of a bureaucrat who had set himself up as a revenue czar? (Cory was primarily responsible for maneuvering a bill through the Legislature at the 11th hour to eliminate Huff's special job security. After Governor Brown allowed the bill to become law without his signature, Huff announced his intention to resign.)

Cory may be right. Huff's successor may turn out to be an efficient and honorable administrator who will also remain on good terms with the Legislature and with the members of the Franchise Tax Board — the controller, the chair of the state Board of Equalization and the Director of Finance, who serves at the pleasure of the governor. (All the new tax collector has to do in order to avoid difficulties with lawmakers is to refrain from challenging the tax-free status of legislators' daily expense allowances.)

But what if some future executive officer turns out to be a political operative with more interest in helping his friends get ahead than with fair and efficient administration of the tax laws? Perhaps more than any other single job in state government, the tax collector can make life miserable for anyone on a political hit list. Look at what an executive officer can do:

- He or she can leak information gleaned from tax returns about political enemies. (Remember the time that somebody in the Franchise Tax Board, not Huff, apparently leaked the information that Ronald Reagan had paid no income tax for a year or two?)
- He or she can use the Nixon tactic of sending income-tax auditors after political enemies.
- He or she can make decisions on the collection of both corporate and personal taxes that can make or break an individual or a business firm.
- He or she can learn which Californians are able to make heavy campaign contributions. And he or she can use the power of the office to help friends obtain campaign funding.

In short, he or she can reward friends and punish enemies. Because of all this, the Legislature many years ago decided that the job had to be taken out of politics, and the executive officer had to be given job protection to prevent the application of undue political pressure on the income tax administrator. Before Cory and Brown struck, Huff could only be removed from office by an affirmative vote of two-thirds of the Senate. Huff remained in office for 16 years because of this provision. He was so independent that he probably would have been removed long ago by those whom he had offended had it not been for this extraordinary protection.

Soon Huff will depart. Some of his top aides will probably retire or find other jobs at the same time. His successors should be examined with a huge magnifying glass. For, as Daniel Webster declared many years ago, the power to tax is the power to destroy.

California Journal

THE MONTHLY ANALYSIS
OF STATE GOVERNMENT AND POLITICS

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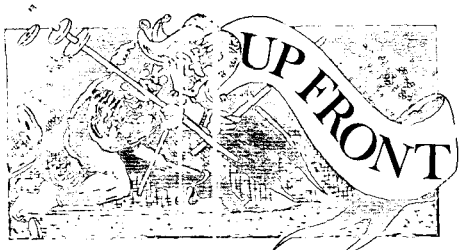

Superior Court Judge Bob Stevens of Los Angeles, he of the lewd phone calls, was known as "The Dancer" during his many years as a member of the Legislature. The nickname had nothing to do with his skills in the ballroom. Stevens has an unusual swing-and-sway way of walking — the aftermath of a bout with polio.

Here comes Assemblyman Art Torres flying out of the pack to take a big lead as the Hispanic hope for election to a statewide office in 1982. His supporters have already raised some $300,000 from two dinners. Torres is among the leaders in the Kennedy-for-President campaign in California. And he will be highly visible in Sacramento in 1981 and 1982 if, as expected, he is named chairman of the powerful Assembly Ways and Means Committee.

When will Jerry Brown pull out of the presidential race? A key date is March 31st — the final day for withdrawal from the California presidential primary balloting. Brown can hardly afford to finish a poor second or third in his own state.

Spurned in his attempt to win the Assembly speakership, San Francisco's Willie Brown has confided to friends that he now has a new political goal — attorney general of the United States.

If Congressman John Rousselot withdraws from the Republican senatorial primary, look for his colleague, Bob Dornan, to jump into the race. Dornan knows the odds are not too favorable against Alan Cranston, but he apparently feels he will have no easy time winning re-election to the House of Representatives in a rematch against Carey Peck, son of actor Gregory Peck.

Rising interest rates are producing a windfall for the state government, which has an investment portfolio of some $8 billion. A year ago, the yield was 8.5 percent. Income now tops 10 percent and the state treasurer's office is now buying securities yielding almost 16 percent. The result will be an additional $114 million or so in spending money for the state this year.

Announcement: A California Policies Studies Program has been established at the College of Advanced Education in . . . Canberra, Australia.

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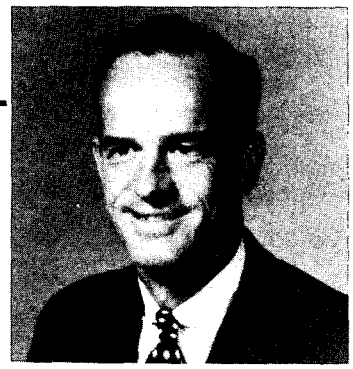
STRICTLY OPINION

With this column, the ***Journal*** *provides a forum for Californians wishing to express a variety of opinions on state political issues. Inquiries about possible future columns are encouraged.*



Brown and energy

By Henry F. Lippitt 2nd

There is no question that Governor Brown and his appointed administrators are largely responsible for the present energy shortage in California.

While Californians have escaped, for the moment, the agony of waiting in service-station lines for gasoline, other energy shortages are coming closer on the oil and electricity front. The reasons for this are apparent to nearly everyone in the California energy industries.

The problem is that while Governor Brown promotes "less is beautiful," with its emphasis on conservation, the entire supply side of the energy equation has been neglected. This "benign neglect" stems not only from the governor's own office but also from the principal energy regulatory boards in the state, including the Energy Commission, the Air Resources Board, the Coastal Commission and the Public Utilities Commission. Not even the Legislature, with its Democratic majority, is exempt.

In considering the California energy problem, it must be recognized that the issues are interrelated. If authorization for construction and operation of a nuclear plant is held up, additional No. 6 residual fuel oil or No. 2 distillate diesel fuel has to be burned to make up the deficit. If a natural gas project is delayed or natural gas production is restricted, additional fuel oil has to be burned. If California crude-oil production is held back, a shortage of refined products results. In each instance, the ultimate effect is to increase the demand for the finished product or reduce the supply of the feedstock. The ultimate effect of all of these energy actions is to aggravate California's present energy shortage.

Faced with this situation, one might expect that every public official in California would be taking the giant steps required to put the California economy back on the track. This, however, is not the case. In Sacramento, there is lots of talk but little or no action to solve the supply side of the energy situation. In fact, efforts continue at the state level to impede solutions.

First, in July Governor Brown asked that PG&E's Diablo Canyon No. 1 and No. 2 nuclear generating plants (both virtually completed at a cost of $1.65 billion) not be put into operation as scheduled starting this winter. Yet each unit has an electric generating capability of about 1,100 megawatts, requiring the alternate burning of 30,000 barrels per day of residual fuel oil. Translated into gasoline equivalent, based upon two gallons of gasoline per day and 42 gallons per barrel, this would provide the basis for enough gasoline supplies for 600,000 California motorists. The numbers would be doubled for the two units.

Second, Governor Brown also asked that the 913-megawatt Rancho Seco nuclear generating plant not be placed back in operation. The alternative would have been to require the remaining steam-electric generating plants in California to burn residual fuel oil, a requirement of 25,000 barrels per day — enough oil to cover the immediate needs of 500,000 California motorists.

To this must be added the governor's new proposal to impose a state "windfall" tax on California state oil production — creating another incentive to purchase supplies of crude oil abroad from OPEC suppliers.

Unfortunately, the governor's actions are followed by the actions of his lieutenants at the energy regulatory agency level. Today, the Coastal Commission, under Chairman Dorill Wright, is preventing Exxon from bringing between 30 and 60 million cubic feet of natural gas ashore from Exxon's completed Hondo Field 4.5 miles offshore in the Santa Barbara Channel. The Coastal Commission's insistence on building a 140-mile crude oil pipeline from Santa Barbara to Los Angeles, along California's beaches, must be considered one of the least intelligent decisions of the decade.

At the same time, the Air Resources Board, under Chairwoman Mary Nichols, is ultimately responsible for closing down production of thousands of barrels per day of secondary crude oil by Getty Oil in the Kern River Field in the San Joaquin Valley because of a single day's air-quality violation, the first in seven years of operation.

To these actions must be added that of the California Public Utilities Commission, now under Chairman John Bryson. In 1976 the commission restricted production of low-priced gas in Northern California while continuing to encourage the importation and distribution of higher cost foreign (Canadian) natural gas supplies. An additional 100 million cubic feet per day of California-produced gas would be the equivalent of 16,000 barrels per day of available crude oil, equivalent to the gasoline needs of 320,000 California motorists.

The California Energy Commission, now under Chairman Russell (Rusty) Schweickart, has contributed its share of problems. In November 1977 the commission decided to reject the Sundesert nuclear plant project, with a planned first-unit electric-generating capacity of 950 megawatts. This project would have provided alternative energy equal to 26,000 barrels per day of residual fuel oil — a volume which, refined into gasoline, would have met the needs of 520,000 California motorists.

Finally, the California Legislature cannot be exempted from criticism. In June 1979, the California Assembly voted 51-27 to deny the state's oil refineries the right to use additional quantities of an additive to enhance the state's gasoline production. Even if only an additional 3 percent of production would have resulted, this would have meant about 60,000 more barrels per day of additional gasoline.

California is a state blessed with abundant natural resources. Even today, it ranks only behind Texas, Louisiana and Alaska in oil production. If Californians want to increase the amount of energy available, it is only necessary to look for leadership from the state's elected and appointed officials. Unfortunately, this leadership has not been forthcoming at the highest state levels.

Henry F. Lippitt 2nd is executive secretary of the California Gas Producers Association in Los Angeles.

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The toxic-chemical storm over California

By HAL RUBIN

It is called O-Ethyl-O-para-nitrophenyl-phenylphosphonothioate, EPN for short, and what you can't pronounce can kill you. EPN is only one of 791 dangerous chemicals on a still incomplete list being compiled by the state Department of Health. They are part of a tide of toxic substances and hazardous wastes that is finding its way into California's air, water and food — sometimes due to accidents and often to willful negligence.

In the next decade, California — like the rest of the nation and the entire industrialized world — faces retribution for 35 years of haphazard disposal methods. Furthermore, places to continue dumping noxious garbage are in short supply.

The dimensions of the problem are staggering. American industry produces or uses about 60,000 to 70,000 chemical compounds, and several hundred new ones are added annually. In California alone, the hazardous wastes or production by-products that need to be disposed of total 5 million tons annually. They come mainly from the refining, processing or manufacture of petroleum products, metals, chemicals, textiles and leather. The industries of the state use or create 22,000 different hazardous substances, mainly in the form of acids, caustics, solvents, pesticides, corrosives and reactive materials.

A model for others

Last month, a congressional report warned that "the hazardous waste disposal problem may well be the single most significant environmental health issue of the decade." In the first national study of waste disposal sites, the survey identified 177 sites in California — a number surpassed only by those in Texas (319), Ohio (253) and New Jersey (223). In all, the survey said, 53 of the nation's biggest chemical companies, comprising about 40 percent of the industry, have dumped 762 million tons of potentially hazardous wastes at 3,383 sites since 1950.

Despite the enormity of the problem, it is important to remember that California's efforts to find solutions are far ahead of those in most states and generally superior to federal programs. In fact, California's toxic-waste controls have served as models for many other states and for the federal government's Environmental Protection Agency and the Resource Conservation and Recovery Act. California has led the way in setting standards for worker protection, transportation of wastes and establishment of occupational health centers for training toxicologists, epidemiologists, nurses and industrial hygienists.

However, there have been enough incidents of contamination to indicate that some of the California laws have been inadequate or that enforcement has been lacking — or both.

These incidents include:

- ***DBCP contamination.*** The state's Health Services Department has found DBCP in 193 of 527 groundwater samples taken from 24 California counties. DBCP, dibromochloropropane, is a pesticide used to destroy nematodes that attack a variety of crops. It was banned after tests showed it causes sterility in humans and is a suspected carcinogen. John Gaston, chief of Health Services Department's sanitary engineering section, says pollution of groundwater is always serious because cleanup is virtually impossible.
- ***Aerojet's chemicals.*** In September the Central Valley Water Quality Control Board charged that the Aerojet-General Corporation, an aerospace firm near Sacramento, had 'willfully or negligently' polluted the underlying groundwater system by dumping hazardous chemicals into storage ponds on its property. At least five toxic chemicals — trichloroethane, carbon tetrachloride, hydrazine, tetroxide, and dichloroethane — used in large amounts to process rocket fuel or to degrease rocket cases have been detected in water samples taken from nearby community wells and surface water.
- ***Stringfellow's contamination.*** At Riverside, the Stringfellow Quarry Corporation was a legal depository for industrial wastes for 17 years, until it closed down in 1972. Contamination of local groundwater and downstream water supplies with acids and caustics and potential air pollution is costing $370,000 to correct.
- ***Telon II spill.*** Two truck drivers and 24 California

Hal Rubin is a journalism professor at Sacramento State University and a regular contributor to the Journal.

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highway patrolmen, firemen and highway maintenance men were hospitalized after being exposed to Telon II, an agricultural pesticide that was spilled during a highway accident near Yuba City. Telon II attacks the central nervous system and the cardio-vascular system.

• ***Occidental's contamination.*** At Lathrop in the San Joaquin Valley, 24 men working for Occidental Chemicals became sterile after exposure to DBCP, and surrounding wells were found to be contaminated with the chemical. At the Occidental plant near Stockton, underground water has been contaminated with a variety of dangerous compounds.

Occidental Petroleum Corporation is the parent company of both Occidental Chemicals and Hooker Chemicals and Plastics. The underground disposal sites of Hooker Chemicals at Love Canal in New York state began leaking poison in 1976, causing the evacuation of hundreds of families who had been suffering from strange ailments. Another Hooker plant in Montague, Michigan, leaked a half-ton of poisonous chemicals each day for years into Michigan waterways. After being sued by the state, Hooker recently agreed to do a $26 million cleanup job.

Other incidents have been more isolated in their effects. In Chula Vista, 500 persons were evacuated from their homes and 11 police officers and fire fighters were injured when a toxic cloud leaked from a truck. In Sunnyvale, bootleg dumpers disposed of a load of cyanide, threatening the city's water supply.

Still other accidents produce a ripple effect of contamination. For example, last June 200 gallons of PCB leaked from an electrical transformer in Montana. The resulting problems spread through 17 states, including California. The PCB had contaminated a plant where hogs are slaughtered and animal feed is packaged. Feed from there was eaten by chickens and hogs all over the West, particularly in the Rocky Mountain area. In Idaho more than 400,000 chickens and millions of eggs had to be destroyed because of contamination. PCB-contaminated chicken went into canned soups, and contaminated eggs were used in frozen pastries. Fortunately, the products were found and destroyed before they were given nationwide distribution.

PCB is such a toxic and persistent chemical that the federal government has imposed rigid disposal standards. One of the eight federally approved disposal sites for PCB is in Santa Barbara County.

Such incidents are more common than most people realize. In Los Angeles, a board of supervisors report recently estimated that one-fourth of all commodities shipped from, into or through the county (usually by truck) are hazardous substances, and that there is at least one incident involving such shipments every day. "Every year, from five to 10 could be classified as major incidents with potential for major or even catastrophic results," the report said.

Why control is difficult

There are at least five reasons why control of toxic contamination of the environment is so difficult:

• In many cases, it is nearly impossible to separate willful negligence from unintentional human error. It is also difficult to establish liability for conditions that existed before environmental laws were written or before chemical dangers were understood.

• With many chemicals, only time will prove whether they are dangerous or deadly. The effects of over-exposure are often latent and cumulative — lung disease or cancer can occur 20 or 30 years after exposure.

Peter Weiner, chief counsel in the Department of Industrial Relations and Governor Brown's troubleshooter on hazardous materials, explains the problem this way: "As a society we leaped before we looked. There are something like 63,000 chemicals in commercial use today, many of which never had adequate research to determine their effects on human beings and the environment prior to their introduction into the marketplace. We realized late that we had a tremendous problem on our hands as a society and as a species, because no country in the world has dealt adequately with these problems."

• The all-pervasive nature of chemical use in industry and agriculture makes any decision on control economically explosive. The use, especially of synthetic organic chemicals, has gone up hundredsfold since World War II, when they were first introduced. Entire new industries in plastics and synthetic rubbers and textiles have emerged since the '50s.

"It took us a long time to attack health problems as a society," Weiner says. "There were times when a responsible segment of an industry would try to do something, but competitive pressures were too much."

Weiner cites the case of vinyl chloride: The chemical industry first agreed that 500 parts per million was an acceptable level of worker exposure. Dow Chemical Company then urged the reduction to 100 parts per million, because its workers were having health problems. But the industry resisted, and one company alone could not invest in expensive protective equipment without incurring extreme competitive pressure. So the acceptable level was not reduced until 13 workers had died; then the federal government set the limit at one part per million.

• Because of the enormous economic stakes in their use and because their dangers aren't always understood, new chemicals are often widespread before they are adequately tested. "In our society," Weiner observes, "chemicals seem to have civil rights; they are innocent until proven guilty. With a lot of substances we think are probably bad, until the long process of proving it is completed, they are in the marketplace."

Weiner believes the enormous costs of research should be borne by the companies, not the government, and that the cost of the product should reflect the costs of finding out if it is safe. Regulatory efforts everywhere have been insufficient to meet the mushrooming problem, he admits. "It has simply been too little — and we hope it is not too late."

• Regulatory agencies lack the legal tools necessary to overcome industrial and agricultural resistance to interference. As a lawyer, Weiner is astounded that the state's water laws give violators "one free bite of the apple," because action cannot be taken without giving the violator a warning. He wants to change that law.

Other factors also hamper enforcement. State efforts to plug legal loopholes are handicapped because industry is often reluctant to share information about hazardous substances with the government and its workers. For example, some industries have withheld information about old dumping grounds and their contents, claiming trade secrets would be involved. In fact, they are fearful that they might be setting themselves up for criminal and civil suits.

"We don't have civil and criminal penalties now for withholding information or furnishing false information — we'd like to have that as an enforcement tool," says Weiner. As yet the state does not have the authority to order a cleanup of past discharges unless it can prove that water quality has been affected.

The position of those who are wrestling with the overall problem is expressed by Robert L. Judd, director of the Governor's Office of Appropriate Technology. "Our best investment will be in approaches that seek alternatives to landfill, while we reduce the use of and recycle the poisons that society generates but which our natural support system cannot assimilate."

Among the alternative technologies being considered are recycling of wastes, incineration and a resources recovery

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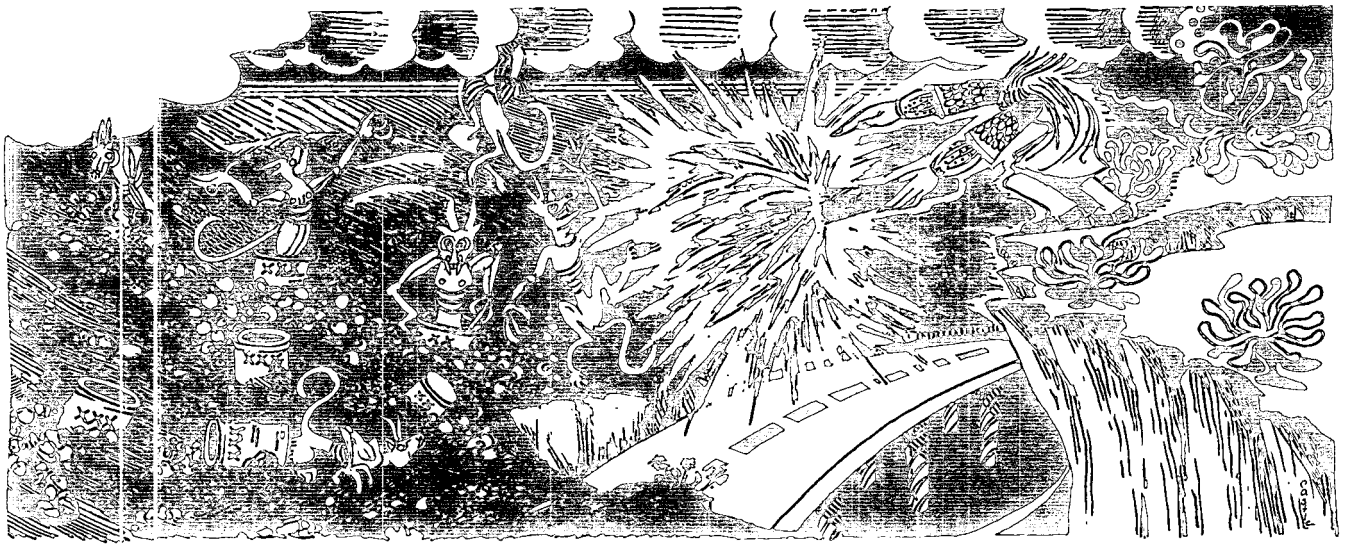

facility. Two promising types of incineration are being tried by Rockwell International in Canoga Park. The molten salt technique is being tested with laboratory scale units that can handle one to two pounds per hour. Combustion occurs under a pool of molten salt, which neutralizes toxic materials such as arsenic, lead, dioxin and polychlorinated biphenyls. Joe Ashworth, a Rockwell researcher, said there is essentially no limit to the hazardous materials that can be neutralized with this method.

Rockwell's coal gasification unit burns up organic materials, neutralizes the toxicity of the non-combustibles, and significantly reduces the volume of what remains so that disposal is simplified. The unit can handle one ton a day, which is considered a commercially acceptable capability. Ashworth says alternatives to landfill disposal techniques will come into use only when the federal government imposes regulations that make it cheaper to destroy hazardous materials than to bury them. The incinerator technology would enable a mobile unit capable of traveling public roads to reach abandoned hazardous sites or the sites of major spills in order to destroy organic wastes and detoxify contaminated soil.

Another possible solution is a hazardous-waste resource recovery facility, able to convert waste acids into agricultural chemicals and to recover metals, metal salts and acids from waste acids as well as recover solvents from waste solvents.

Trading in waste

Still another alternative to current disposal methods is waste exchange or waste transfer. This would take a product that has no use to the business that produced it and trade or sell it to some other industry. The process would involve establishing a waste exchange — a service that collects, stores and disseminates information about available wastes. Services like this have been set up in California and Oregon by private businesses, associations and government agencies.

California also intends to work on better identification of chemical cargoes and hazards, and to develop intensive training and specialized equipment for police and firemen called upon to handle the 700 chemical spills and fires that occur every year. Already the Brown Administration has set up a central clearinghouse to find, analyze and store computerized information about toxic substances and chemicals. Until now the data were scattered and fragmentary. In October an Occupational Health Hazard Information and Alert System was established. Its first priority: to identify extremely hazardous substances that have thus far escaped detection.

Marc Lappe, a Department of Health Services biologist specializing in experimental pathology, is interim director of the data gathering-alerting system. He wants to compile a complete registry of all compounds used in the state, including their toxicity profiles. Special attention will be given to industries like electronics, film-making, and lumber that are important in California. Toxicity profiles of new chemicals will serve to identify potential dangers and to pinpoint the agents that are causing illnesses among workers.

Early warning system

The alerting system could provide warning information long before the legal regulatory process wends its way through the bureaucracy and court challenges by industry. For example, if short-term tests indicate a material might cause mutations in offspring, an alert would be issued to the workers and industry involved. This might prevent incidents like the DBCP experience. (In 1961 laboratory studies by Dow Chemical Company and Shell Oil indicated the danger of DBCP, but the pesticide was not banned until 1977.) The new alerts are expected to prod industry into more prompt corrective action.

The basic tools for existing regulatory efforts have been forged in Sacramento. Two key California legislators in the battle against hazardous wastes have been former Senator John Dunlap and Assemblyman Bill Lockyer. Dunlap was responsible for the Hazardous Waste Control Act of 1972, which gave the Department of Health Services the power to adopt and enforce regulations governing the handling, processing and disposal of hazardous wastes that might endanger humans, domestic livestock and wildlife. The initial legislation recognized the need to identify and track hazardous wastes from the point of generation to ultimate disposal.

In 1977, Lockyer added enforcement clout to Dunlap's law, in order to prevent the clandestine and illegal dumping of toxic chemicals. Lockyer's bill further strengthened the Department of Health's regulatory authority and broadened its mandate for cycling and recovery of resources from hazardous wastes. An important provision requires the registration of those who haul hazardous wastes and the issuing of permits for the use and operation of hazardous waste facilities.

The Health Department also got stronger authority to control hazardous waste operations by denying or revoking hauler registration and facility permits. Lockyer's bill added civil and criminal penalties for violation of the law or regulations — amounting to $25,000 for each civil violation,

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The Frank Mesplé internship fund

The late Frank Mesplé was one of the most popular individuals ever to appear on the Sacramento political scene. At the time of his death September 28th, he was legislative advocate for Sacramento County and taught a course on state and local government at the University of California at Davis. Previously, he had served as legislative secretary to former Governor Edmund G. Brown Sr. Because of his ready wit, he was often sought as master of ceremonies for political functions throughout the state.

In his memory, the Board of Directors of the California Center for Research and Education in Government, the *California Journal*'s parent organization, has created the Frank Mesplé Internship Fund. Proceeds from the fund will assist students who will work for the *Journal* observing state and local government and will prepare articles for publication in the *Journal*. Contributions to the fund may be sent to the Frank Mesplé Internship Fund, % *California Journal*, 1617 10th Street, Sacramento, CA 95814.

and $25,000 or one year in prison, or both, for each criminal violation.

Five different agencies are charged with enforcing the law: the departments of Food and Agriculture, Industrial Relations and Health Services, plus the State Water Resources Control Board and the Air Resources Board.

"California is the first state to have a specific law requiring a program of treatment of waste residues from the cradle to the grave," says Harvey F. Collins, chief of the Hazardous Materials Management Section of the Department of Health Services. A key control in the elaborate toxic-tracking system is the use of manifests, or lists, for all toxic wastes transported on public roads. The manifests, which must accompany any shipment, identify the hazardous waste to be transported (whether by truck, train or vessel), the amount, the general composition, and also information about antidotes, first aid or safety measures in case of accident. About 3 million tons of toxic wastes do not fall under manifest control because they are transported and disposed of on private property. In those cases, the DHS requires monthly "honor-system" reports on such wastes.

Another state control was established in 1972, when the State Water Control Board adopted minimum standards for waste disposal on land and established a statewide disposal site and waste classification system. Classification of disposal sites is based on the geologic and hydrologic features of the disposal area and the capability to protect the quality of surface and ground water. Wastes are categorized according to the danger that a particular material presents. Scattered around the state are about 600 storage, treatment and disposal sites. The strategy is to regulate where and how waste disposition is accomplished in order to ensure general safety, public health and environmental safety. Solid or liquid wastes can only be disposed of at sites approved by one of the nine regional water quality control boards. The regional boards can institute more stringent conditions if the local situation requires additional safeguards.

Obviously if all of California's codes, laws and regulations were obeyed, the state would have fewer environmental problems. But negligence, willful and otherwise, is responsible for much of the chemical pollution. In some instances the violations demonstrate a total disregard for public safety. Illegal dumping is quick, easy and inexpensive. Bootleg dumping evades the costs of legal disposal that can run from $5 to $50 a drum, depending on the location of the site, type of material and quantity. Toxics can be illegally flushed down a sewer or put in barrels and abandoned along railroad tracks and isolated highways.

To help counteract illegal disposal practices, the Legislature in 1978 gave the DHS authority to require permits for hazardous waste disposal, whether on public or private land, and to investigate suspected violations. Collins' section is using field surveillance and enforcement teams ("chemical cops") to stake out sites where illegal dumping is going on. Under the new civil and criminal penalties authorized last year the DHS has 10 cases pending. If funding were available for a bigger force of "chemical cops" Collins believes violations could be reduced.

Other gaps need to be plugged. A systematic, statewide search to determine the nature and extent of possible health hazards at abandoned chemical waste dumps in California has not been made yet, but the governor's Office of Planning and Research is working on the problem with the DHS. California may have avoided a serious threat from the Love Canal-type of pollution because the state's Water Quality Control Act has regulated discharge from major hazardous waste disposal sites since 1949. However, the DHS is concerned about on-site chemical waste dumps of individual industries like those at Aerojet and Occidental, which have been difficult to monitor and detect.

The pesticide debate

Still another vast problem involves California's large petrochemical industry and the network of pesticide interests which service agriculture, the state's chief industry. Currently the Central Valley Regional Water Board is investigating 200 sites where pesticides are handled.

More than 300 million pounds of pesticides were used on crops in California in 1978. Yet research into the effects of long-term consumption of food treated with chemical poisons is limited. Before DBCP was banned two years ago, the Environmental Protection Agency reported finding residues of the chemical in vegetables and peanuts. Every year more than 1,000 farm workers and pilots who fly crop-dusting planes are harmed by pesticides.

Because agrichemicals are both a hazardous substance and a toxic waste, and because they pose a significant threat to public health, the Department of Food and Agriculture spent 18 months and $1 million to get a pesticide regulatory program that would meet environmental quality standards specified in state law. The report, which involved 40 experts, was rejected by DFA Director Richard Rominger, who developed an alternative of his own last month. The final pesticide control policy may wind up in the courts or back in the hands of the Legislature.

And the pesticide debate is only one segment of the continuing conflict: Is government regulation of chemical use really protecting the public health or simply harassing private business and agriculture? Former Senator Dunlap insists that industry minimizes environmental concerns by asserting that risk is inevitable in any technological progress.

He concedes that societies can't advance without elements of risk. "But somewhere along the line," Dunlap adds, "the decisions as to the risks we do and don't take as a society must be shared decisions."

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Devil of a battle over Diablo Canyon

By MARY BARNETT

A few blocks separate the ramshackle old house that serves as Abalone Alliance headquarters in San Luis Obispo from the handsome, Tudor-style office of attorney and real estate mar. Martin Polin.

At the Abalone headquarters, tall, bearded, 22-year-old Kevin Blankenburg, clad in T-shirt and khaki shorts, bends over an old oak desk and plots strategy to keep Pacific Gas and Electric Company's Diablo Canyon nuclear power plant from going on line.

And in his stucco-walled office hung with original oils, grey-haired Martin Polin sits at a fine mahogany desk and also plots how to keep Diablo Canyon from going on line.

The anti-nuclear power movement is no longer the exclusive property of the young, the long-haired and the anti-establishment. Today opposition to nuclear power — and especially to the $1.6 billion nuclear generating plant at Diablo Canyon, 12 miles southwest of San Luis Obispo — cuts across lines of age, background, lifestyle and politics.

Twelve years ago, when PG&E announced plans for the nuclear power plant that was to provide jobs, prosperity and low taxes for San Luis Obispo County, support in the Central Coast community was overwhelming. That was during the honeymoon of the "atoms-for-peace" program. City councils, public officials and service clubs vied with each other to see who could welcome the plant most effusively. Even the conservation-oriented Sierra Club said Diablo Canyon was a "satisfactory alternative site" to one earlier selected by PG&E in the Nipomo Dunes, near Santa Maria, which the club wanted to protect.

But times have changed. Raye Fleming, leader in the anti-Diablo Mothers for Peace and in the Abalone Alliance affiliate called People Generating Energy (PGE), says she has seen a gradual opinion shift in the community since she joined the Mothers in 1971 and became a Diablo opponent.

"We have really seen a change since Three Mile Island," she says. "After TMI, people knew what we'd been saying all through the years was true. Now there is well over a majority in town against the plant. Up until a year ago there were only two anti-nuclear power groups here — Mothers for Peace and People Generating Energy. Now, after TMI, there are at least 11."

The groups include Concerned Architects, Concerned Citizens of San Luis Obispo, Concerned Citizens of Shell Beach, Concerned Physicians of San Luis Obispo, Local Business for Full Coverage Committee (which advocates full insurance for nuclear catastrophes instead of the present $560 million limit set by the Price-Anderson Act), Mothers for Peace, Nurses Against Nuclear, Oak Tree Alliance, People Generating Energy, Seaside Survival and South County Voters Against Diablo.

The source of their concern is a 2,190-megawatt, two-unit nuclear power generating plant, now essentially complete, at the mouth of Diablo Canyon on the Pacific shore, halfway between Los Angeles and San Francisco. PG&E, the state's largest utility and one of the largest in the nation, has been seeking an operating license for Diablo since 1973, first from the Atomic Energy Commission and since 1975 from its successor, the Nuclear Regulatory Commission.

The license is destined to be delayed at least until sometime next year. Last month the NRC announced that it would grant no operating or construction licenses for nuclear power plants until it adopts a new set of safety, siting and emergency standards. The move prolonged a *de facto* moratorium in effect since the Three Mile Island accident in late March.

Diablo Canyon would no doubt be generating power today

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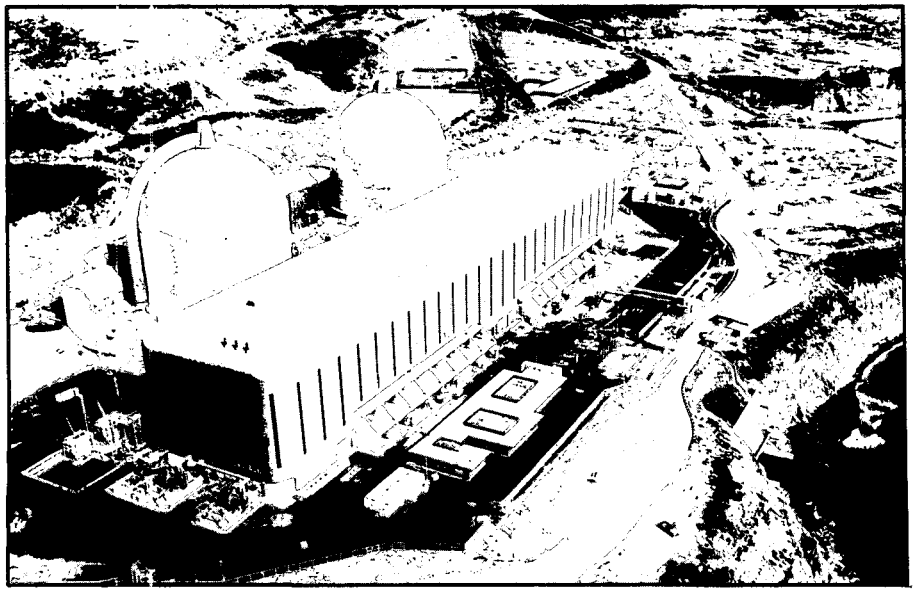

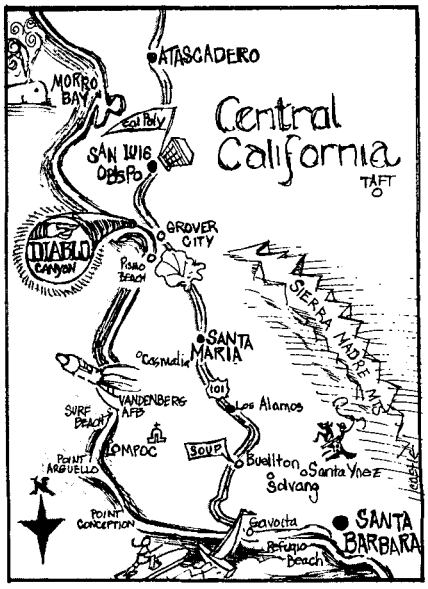

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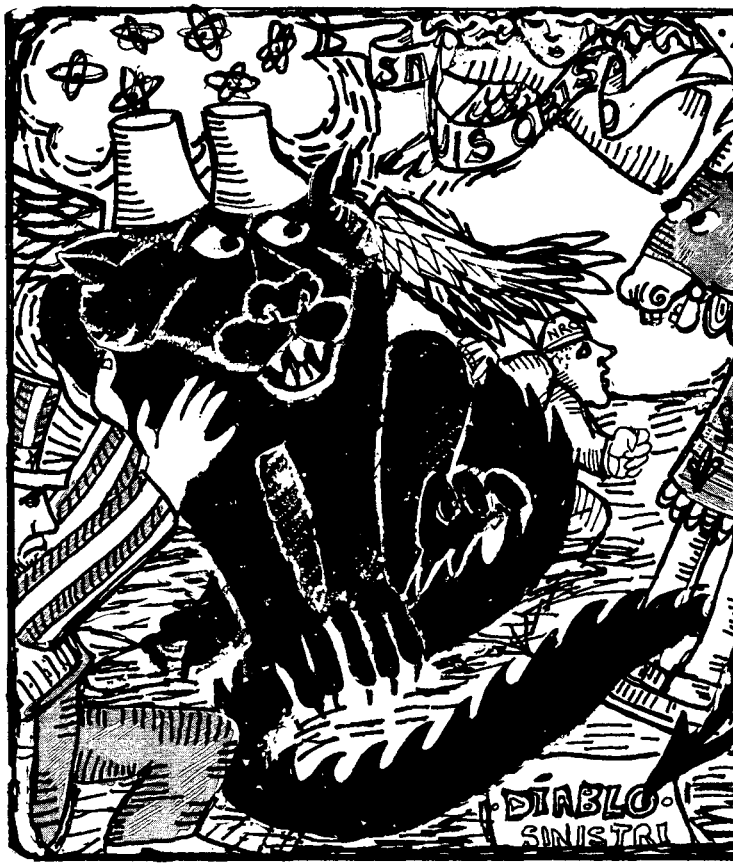
ILLUSTRATION BY GRACE MATEU



for the huge PG&E Northern California service area had not two Shell Oil Company geologists named Ernest G. Hoskins and John R. Griffiths found an earthquake fault three miles offshore from Diablo while prospecting for oil in the mid-1960s. In 1971 they published an article in a technical journal reporting their find, named the Hosgri Fault after them. A PG&E consultant saw the article in 1972, and PG&E reported the Hosgri's existence to the AEC in 1973. The United States Geological Survey investigated and said the Hosgri could produce an earthquake of a 7.5 magnitude on the Richter Scale — 10 times the size of the 6.5 quake the plant was designed to accommodate. (The Richter Scale is logarithmic. Each full step up on the scale represents a 10-fold increase in magnitude.) AEC required the power company to retrofit the plant to withstand a 7.5 quake.

This PG&E did. However, the quality of the retrofitting is a matter of dispute between the company and the plant's opponents.

In July 1978, the Nuclear Regulatory Commission received a report from its independent Advisory Committee on Reactor Safeguards concerning PG&E's application for an operating license. It found several unresolved problems, whose resolution "in a manner satisfactory to the NRC staff" was recommended. But the major problem ACRS considered was the Hosgri. After a technical discussion of design components, acceleration and response spectra, the experts got to the main point: "It is evident from the foregoing that the design bases and criteria utilized in the seismic re-evaluation of the Diablo Canyon Station for the postulated Hosgri event are in certain cases less conservative than those that would be used for an original design. The committee believes, however, that there are offsetting factors that lead to acceptance of these bases and criteria for an already completed plant."

One such factor, ACRS said, is "the fact that the population density around the Diablo Canyon site is low."

Plant opponents howled. They charged that ACRS was lowering its standards to recommend acceptance of the plant because $1.6 billion had been poured into it, and that the committee was writing off the population of San Luis Obispo County as expendable.

Hearings before the three-member Atomic Safety and Licensing Board opened one year ago and concluded in February after extensive testimony. Early in October, in an initial 94-page decision issued in Washington, D.C., the hearing board said the plant could withstand a 7.5 event on the Hosgri.

But after the near-meltdown at Three Mile Island, President Carter appointed an 11-member commission headed by Dartmouth College President John Kemeny to investigate the TMI accident and report on how lessons learned there could be applied to nuclear power plants. Pending the Kemeny Commission report issued last month, NRC delayed licensing of all nuclear plants, including Diablo.

The governor's promise

Despite increasing public concern almost everybody — nuclear friend and foe alike — thinks the NRC will eventually license Diablo, after additional safety requirements. But public opposition is building in San Luis Obispo, elsewhere in California and throughout the nation. This opposition now includes presidential candidate Edmund G. Brown Jr.

In May, Jerry Brown asked the NRC to suspend consideration of an operating license for Diablo Canyon. He said several questions need resolving, including earthquake safety at Diablo, the causes of the Three Mile accident and emergency preparedness.

In June, Brown told an estimated 40,000 cheering Diablo protesters at Cuesta College field near San Luis Obispo that he would do "everything in my power" to prevent Diablo from being licensed.

Cynics noted the promise might not mean much since the federal government has pre-empted the field of nuclear power plant safety. Brown's statements were widely seen as a political play for the anti-nuclear vote. Brown's own staff admits there is nothing Brown can do about Diablo in his capacity as governor. Richard Maullin, former state Energy Commission chairman and now head of the Brown for President campaign, says the governor could join in any legal action by Diablo opponents.

The limit of power

Brown has indicated he will do just that. While campaigning in New Hampshire early in October, Brown came out against licensing Diablo on the ground that emergency response and evacuation plans are inadequate. He asked permission to take part in licensing hearings on issues related to the Three Mile Island event to be held by the Atomic Safety and Licensing Board in San Luis Obispo next spring.

Some Diablo opponents insist the governor's emergency powers would allow him to shut down the plant as a threat to public safety. But Maullin and Steve Duscha, a Brown press aide, agree this is a faint hope.

"If the plant posed an immediate threat to safety, he could shut it down, but there would have to be a factual basis," Maullin says. "Some kind of an effort that would stand up in court — a clear and present danger."

Duscha cautions, "Emergency powers are limited. I would not hold out a lot of hope the governor would have the authority to stop the plant that way. There was talk about using them (emergency powers) to close Rancho Seco (the nuclear power plant near Sacramento, which has a Babcock and Wilcox reactor as does the Three Mile Island plant). The attorney general's conclusion was he couldn't."

In the Abalone Alliance's tiny office, staff members are skeptical about Brown's promises. They believe the governor has been evasive on the Diablo issue and are convinced he could stop licensing of the plant by using his emergency powers if he only would.

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If evacuation plans are inadequate, the Brown Administration is partly to blame because such plans are under the jurisdiction of the state Office of Emergency Services (OES). PG&E is responsible only for evacuating the 750-acre site in the event of an accident. San Luis Obispo has a plan for evacuating a somewhat wider area on file, including the tiny town of Avila Beach, but County Manager Don Stillwell admits, "It is not a plan we are happy with."

A new staff member is now on Stillwell's staff, drawing up a more adequate plan to take in a wider area. This merely amuses Andrew Baldwin, attorney for Friends of the Earth, which is against all nuclear power plants anywhere. "They could assign 100 people to it," he says. "They're not going to develop an emergency plan to evacuate San Luis Obispo in an hour. Imagine every car in a city of 40,000 trying to get over Cuesta Grade!"

Stillwell admits the grade could pose a problem. It is one of the state's steepest climbs, crossing the Santa Lucia Mountains from the coastal plain to the Salinas Valley. Yet it is the only way out of town to the north, which would be the way to go since prevailing winds blow to the south.

City councils of San Luis Obispo, Pismo Beach, Morro Bay and Lompoc have asked the NRC to hold up licensing of Diablo Canyon pending preparation of an adequate emergency evacuation plan. Typical of the others, the San Luis Obispo resolution asks for an evacuation plan for an area within a 25-mile radius of the plant. Lompoc, 60 miles southeast of Diablo, in the direction of the prevailing winds, wants a still bigger evacuation area.

Although Santa Barbara is about 100 miles south of Diablo, the community is nervous about the plant. The Santa Barbara County Board of Supervisors has asked the California Public Utilities Commission to re-evaluate its earlier approval of the plant in the light of the Three Mile Island accident and the Hosgri Fault. Because of the federal pre-emption of nuclear safety, the move seems doubtful.

Strategies of Diablo opponents vary from letter-writing campaigns and legal interventions to plans for an all-out blockade to stop the plant from going on line.

Organized as an anti-Vietnam group in 1969, Mothers for Peace of San Luis Obispo has since 1972 been battling the Diablo plant. Their means are both legal and non-violent, including anti-nuclear publicity and legal intervention before the AEC and NRC licensing panels. At first, lacking funds for lawyers, Mothers for Peace acted as their own attorneys. But in more recent hearings, the Center for Law in the Public Interest, a non-profit law firm with offices in Los Angeles, aided them. It hired David Fleischaker, Washington attorney specializing in fighting nuclear plants, to direct the case. Besides Mothers for Peace, official intervenors before the NRC include Scenic Shoreline Preservation Conference, Incorporated and the Ecology Action Club of San Luis Obispo.

A hearing, then conditions

Following Three Mile Island, the joint intervenors asked NRC for another hearing, including possible design, operation and emergency planning changes indicated by Three Mile Island. Hearings have not been officially announced, but all concerned have been assured they will be held.

Fleischaker estimates that the new Diablo hearings will occur no earlier than March and possibly as late as June. Assuming all issues are resolved in favor of PG&E, he predicts no startup of the plant until August 1980. Hearings are not expected to result in a denial of the license.

"Denial is not a realistic possibility," says NRC publicity man Jim Hanchett in the Walnut Creek NRC Office of Public Affairs. "The licensing board's practice is to say the license could be issued under certain conditions."

After license approval, the intervenors will fight on. They are expected first to ask for a stay of the license. "There are two levels of review," Fleischaker says. "There is the five-member Nuclear Regulatory Commission, which could reconsider the licensing board's decision, and there are the courts. We may not have to request a stay. The NRC is considering signing off all licenses itself."

Intervenors say there should be no license until there is a re-analysis of the facility's seismic design. PG&E and the NRC staff have repeatedly pointed out Diablo Canyon is the most thoroughly studied nuclear plant in the history of the nuclear industry. But Fleischaker insists that the re-analysis made following the discovery of the Hosgri Fault was fundamentally deficient.

Here is how the anti-Diablo leaders explain their point: A 7.5 earthquake, according to USGS, can produce a peak acceleration, or shaking, of 1.15gs (115 percent of the force of gravity). They note the plant was built to withstand an acceleration of 0.4gs (four-tenths of the force of gravity.)

PG&E witnesses, who include some of the leading authorities in the seismic field, say the figure to use is the average post-quake acceleration of 0.75gs instead of the peak acceleration. By considering the "Tau factor" — which means the fact that big foundations filter out some of the seismic waves — PG&E reduces the force of acceleration to 0.5gs. Another factor, the "damping effect," cuts off another 20 percent, putting them back to 0.4gs.

PG&E has retrofitted the turbine building, originally designed to withstand a force of 0.2gs, but not the other buildings, including the reactor buildings which are built to withstand a stronger acceleration.

"Except for the turbine building, nothing has been done to the buildings," says Richard Hubbard, technical consultant for the intervenors and former General Electric nuclear engineer who quit because of concern over nuclear plant safety. "They have been re-analyzed. Rather than spend money beefing up the structures, PG&E has spent it on fancy computer models."

PG&E presented several panels of expert witnesses who presented detailed evidence to support the conclusion that

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the structures, systems and components will perform as required during the postulated 7.5 earthquake. However, PG&E declines to admit a 7.5 can happen on the Hosgri. It says 6.5 is probably tops.

In June 1977, the *Los Angeles Times* revealed that NRC staff officials, seeing a "horrendous" retrofitting job in prospect, put heavy pressure on the USGS to withdraw its assessment of the Hosgri earthquake danger. They failed. USGS stuck by the 7.5 figure.

NRC's decision that Diablo is earthquake-safe doesn't surprise Abalone Alliance, a loose confederation of anti-nuclear power groups throughout the state. Alliance members put little faith in the NRC, the legal process or the government. They insist there is a dangerously incestuous relationship between NRC and the nuclear power industry, pointing to movement of personnel back and forth. "We came together as the Abalone Alliance realizing the regulatory process is a sham," says Steve Leeds, an Alliance staff member in San Luis Obispo. "Sure, the plant is going to be licensed. If not, a $1.6 billion investment is jeopardized. The pressures on NRC are tremendous."

But heavy anti-nuclear pressure also is building. People Generating Energy in San Luis Obispo is planning a blockade of Diablo by land and sea involving thousands of persons, if necessary. The aim: to prevent loading of fuel rods into the plant. Blankenburg emphasizes the action will not be merely symbolic, as was the 1978 "blockade" of Diablo by nuclear protestors which resulted in the arrest of 487 persons.

"The action we plan will be aimed at stopping the plant once and for all," he declares. "Sure, they'll have the police and National Guard out. But there are some interesting dynamics here. It would take Jerry Brown to call out the National Guard."

Abalone Alliance hopes so many people will turn out that the police won't be able to take them away. It plans to establish a community on the site. They point out that when the government announced plans to build a nuclear plant at Whyl, Georgia, 20,000 people set up a community on the site, remained several months, and stopped the plant.

A "National Call to Action" is being issued seeking support for the land and sea blockade from anti-nuclear activists throughout the United States.

An unlikely ally

It was a matter of some surprise in San Luis Obispo when Martin Polin, a mild-mannered, 60-ish attorney with impeccable conservative Republican credentials, came out swinging against the Diablo plant in hard-hitting letters to the editor of the *San Luis Obispo Telegram-Tribune*.

Polin, an admirer of the region's beauty, considers what he calls "continuous radioactive dust" — the low-level radioactive discharge that is part of normal operations — the worst thing about nuclear power plants.

"San Luis Obispo advertises 'Come up for air,' " he says. "This is the last place between San Francisco and Los Angeles with clean air. This has been a wonderful area. I hate to see it ruined."

In a letter to the *Telegram-Tribune* last May, Polin claimed that "Radioactive dust would be continuously emitted from Diablo . . . The radioactive dust is carried for miles by the wind. It builds up over the years. People, animals and crops are affected. In the area, there is no getting away from it."

Partly because of Polin's letters, a group of what one observer calls "establishment, professional types in three-piece suits" formed Citizens Concerned about Diablo. They invited Fleischaker to San Luis Obispo to talk. He suggested several possibilities in the event a license is granted, including conversion of the plant to fossil fuels. Polin himself thinks the best solution would be revival of the Nuclear Safeguards Initiative defeated by California voters in 1976. He says Proposition 15 could have stopped Diablo because, for one thing, there is no adequate evacuation plan.

"It's true the initiative might not come to a vote in time, but it would show how people feel," he says. "If the people in authority — Congress, the President — see signatures growing by hundreds of thousands, they'll know what the people really want." Circulation of such a petition is being discussed, he says.

Who pays?

In his 17th floor office in the San Francisco PG&E building, Dick Davin — public information specialist on nuclear plants — sees no point in even considering the idea that Diablo won't be licensed.

"There is no such possibility," he says. "I can't conceive of that happening. The NRC will say 'We will license you after such and such is done." We will do whatever is required. To turn us down, they would have to have a reason, right? We had the earthquake hearing. We showed the plant is adequate for any event on the Hosgri."

But if by some unlikely chance the government decides Diablo should not go on line, Davin says PG&E should not have to eat the $1.6 billion cost, undertaken in good faith before the Hosgri Fault was discovered.

"The PUC would have to decide who would bear the loss," he says. "Ratepayers would have some liability. Stockholders can't be asked to give up $1.6 billion."

Some plant foes feel federal indemnification would be fair. These include John Gofman and Arthur Tamplin, formerly of the University of California's Atomic Laboratories at Livermore and authors of *Poisoned Power*, an anti-nuclear tract. Most of the nuclear power opponents, however, seem to have given little thought to the matter.

Some observers think that NRC will license Diablo and then, after a brief period of operation, will close it down. In the process, plant costs go on the rate base — to be born by Northern California power consumers.

"The opposition has been making some strange statements," Davin replies. "We hear costs don't go on the rate base until 30 days after the plant goes into operation. That's not true. On the first day of operation after the plant is accepted by PUC, all costs, including the borrowing of money, become capitalized."

So far, nobody has paid for the plant. PG&E has borrowed the money through sale of bonds and stock. Loans are to be paid back when the plant goes into operation. PG&E has asked that costs go on the rate base when Diablo becomes operational. Initially it expects no change in rates, PG&E says.

Davin claims PG&E is unconcerned about Governor Brown's opposition. "I frankly don't know what he can do. Generally, nuclear plants are under federal pre-emption. It is disturbing, however, to see his continued opposition in light of the fact we've asked to sit down and talk to him about it. We sent him a telegram. There was no response. We even did a newspaper ad with the telegram. No answer."

He turns and looks out the window. Flags of the United States, the state of California and the Pacific Gas and Electric Company flap in the breeze.

"We are awaiting an operating license for which we applied in 1973," Davin points out. "The leaders of the free world say we must build more nuclear power plants to reduce our dependence on oil. Diablo will save 20 million barrels of oil a year. It's the equivalent of two-and-a-half days of imports for the entire country. It will help national security by decreasing our dependence on the OPEC nations. President Carter has called for more nuclear power. We need Diablo."

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Cartoon by Steven Greenberg, The Valley News.

SHED A TEAR FOR THE BIG RED CAR

The mass transit mess in Southern California

By Tom Bourne

If a million drivers were suddenly added to the streets of Southern California, chaos would result. The increased number of vehicles could delay travel time as much as 90 percent on the Harbor Freeway, 55 percent on the San Diego, 110 percent on the Santa Monica Freeway. Hitchhikers would deluge the freeway on-ramps. And if an inversion layer developed simultaneously, LA might go through its most vicious attack of smog in a quarter of a century.

Although this sounds like a science-fiction script for a film called *The Monster That Devoured Los Angeles*, those events actually occurred last September. The cause was another strike by the employees of the Southern California Rapid Transit District, their fourth in seven years (each time the contract has come up for renewal). The hardest-hit victims, aside from the lung and cardiac patients who rushed to nearby hospitals, were the poor and the elderly. Of the SCRTD ridership prior to the strike, 73 percent made less than $5,000 annually, 38 percent were unemployed and 23 percent were over the age of 62.

The basic problem

By arranging a moratorium on the unsettled issues, Governor Brown got the final hold-out Amalgamated Transit Union to go back to work after 23 days off the job. Not a long strike as far as SCRTD unions are concerned — the record was 68 days in 1974 — but certainly long enough for LA County Supervisor Kenneth Hahn, who described the mood of the public while the strike dragged on as "ugly."

The frequent bus strikes simply underscore the most vital issue confronting Southern California today: the lack of an effective means of mass transit that could alleviate many of the congestion and energy difficulties which residents face daily. To understand Southern California's mass-transit problems requires a trip back to 1902. That was the year Henry Huntington created the Pacific Electric Railway (popularly known as operators of the Big Red Car), to serve the transportation needs of residents and — not coincidentally — to build up properties he owned in the communities where the lines would go. The Red Car quickly became the accepted mode of travel in Los Angeles. In its banner year of 1923, it rolled up 31 million passenger miles. By that time the route stretched from Long Beach to Van Nuys, from Santa Monica to San Bernardino and even up to Mount Lowe in the San Gabriel Mountains.

But gradually the Red Car gave way to the automobile. Only during gas-rationed World War II did it briefly regain popularity. Two other forces were also at work: the state gasoline tax of 1938, which mandated that all revenues must go for highways and roads, and General Motors Corporation which, according to a U.S. Senate survey, bought up and dismantled parts of the Pacific Electric system in order to eliminate alternatives to the auto. By the '60s, the combination of these factors had fatally weakened the electric trains.

In the early 1950s, however, the Metropolitan Transit Authority was created with the express purpose of developing anew a mass transit system in Southern California. The MTA came up with a plan that projected a monorail line from Long Beach to Canoga Park through downtown. Neither it nor the MTA gained much public acceptance.

In 1964, the MTA was abolished by the state Legislature and replaced with the SCRTD. The new agency was given similar responsibilities to continue planning for mass transit and to provide bus service for the region.

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Since then, the transit district has been the victim of what General Manager Jack Gilstrap has called the "pancake" decision-making process: Any proposal must go through so many governmental agencies that it takes years to get anything accomplished. Among the stack of controlling agencies: the LA City Council, the LA County Board of Supervisors, the LA County Transportation Commission, the Southern California Association of Governments (regional coordination), Caltrans and eventually the federal Department of Transportation — not to mention the 77 municipalities that would be affected one way or the other by any action.

Not surprisingly, then, the closest LA got to a mass transit system in the '70s was a project that emerged not from the transit district but through the joint efforts in 1975 of Mayor Tom Bradley and LA County Supervisor Baxter Ward. Their plan bore a strong resemblance to the MTA proposal of the '50s, but it proposed a light rail system instead of a monorail. Cities, agencies and the state of California's Business and Transportation Agency pledged their money and their support. But then in August 1975, Tom Bradley switched his support to the idea of a Wilshire subway because he believed that, located in a more concentrated area of population, it could serve more people.

Stunned by the mayor's change of heart, Supervisor Ward chose to go it alone. Later in the year he proposed a 268-mile Sunset Coast Limited that would "bring back the Red Car," and be financed by a one-cent sales tax. The voters, however, did not agree and defeated his plan in June 1976. Since then, Ward has tried to resurrect variations of the plan and has been shot down repeatedly. His fellow supervisors voted 3-2 last August against putting the proposal before the voters another time.

Plans and problems

In the wake of Ward's defeats, the mass transit possibilities for Southern California have boiled down to the following controversial proposals:

- ***The Downtown People Mover.*** This was the brainchild of the Community Redevelopment Agency, which suggested a short-range (2.9 miles), lightweight elevated transit system (similar to those in use at Disneyland and the Seattle Airport) to link Union Station and the LA Convention Center via Bunker Hill. Although the federal Department of Transportation had previously balked at the idea of helping LA with mass transit, in 1976 it chose the city, among others in the nation, to "demonstrate the feasibility of automated downtown people mover projects." The federal agency will pick up 80 percent of the expected $175 million tab. The city and county of LA and the state of California (which gave final approval in August to provide $15.9 million) will make up the balance.

Ground-breaking ceremonies for the People Mover will occur in late 1980; the first passengers are expected to board the driverless vehicles in mid-1983. Ideally, the new system will be carrying 72,000 persons per day by 1990.

There has been some spirited opposition to the People Mover project. Critics argue that the plan was not designed with Southern California's mass transit needs in mind. Its purpose, they say, is to plug a parking gap: When the Bunker Hill development is finished, 8,000 more parking places than now exist will be needed — half of which will be provided in the city-built parking lots at either end of the line. In describing the plan six years ago, former *Los Angeles Times*, architecture critic John Pastier wrote that the People Mover "is an impressive monument to the automobile and may very well be the most expensive parking lot ever proposed." Moreover, no people mover has ever been tried in a downtown area before; design problems will be complex.

Yet People Mover project coordinator Albert Perdon feels the drawbacks have been overstated. He sees a basic philosophical difference between his task and that of mass-transit backers. While their job is purely transportation, Perdon says, "ours is to redevelop downtown. We want to make the downtown area efficient, liveable, interesting and entertaining."

- ***The Wilshire Subway.*** Probably one of the reasons the Wilshire subway project has been the prime beneficiary of the defeat of Ward's Sunset Coast Limited is that it, like the People Mover, will be 80 percent funded by the federal government rather than by local sales taxes. There is one catch: Washington has not approved the project, nor are funds thought to be immediately available for the 18-mile-long line with an estimated price of $1.6 billion. The whole project has been bogged down in local squabbling, mainly over the route the subway would take. The political forces of Tom Bradley, the LA City Council, the LA County Transportation Commission and the transit district itself have agreed on a path that would start at Union Station (intersecting with the People Mover), and then go out Wilshire Boulevard to Fairfax. At that point it would zig-zag east and

LA Mass Transit at a Glance

Proposal	Advantages	Disadvantages
PEOPLE MOVER	Will carry 72,000 persons per day by 1990, cut auto usage and reduce downtown traffic; funding secured; serves as part of overall downtown LA redevelopment program.	Has been labeled "the most expensive parking project ever proposed." Reduction in traffic will amount to only 3½%.
WILSHIRE SUBWAY	Would serve the densely populated Wilshire district and carry 600,000 people daily if approved as planned; 80% of funding would come from federal Department of Transportation.	Controversy over route; funding not granted; completion a decade away.
AMTRAK EXPANSION	Would offer the same type of rail service, from Union Station to Oxnard, as the popular San Diego-LA run; track in existence.	Would go over single track for 65 miles of the route and disrupt Southern Pacific freight service to San Fernando Valley.
SCRTD IMPROVEMENTS	Will establish "grid" system that will eliminate rider confusion; to be handled within existing SCRTD budget.	Currently unclear how much ridership will increase.

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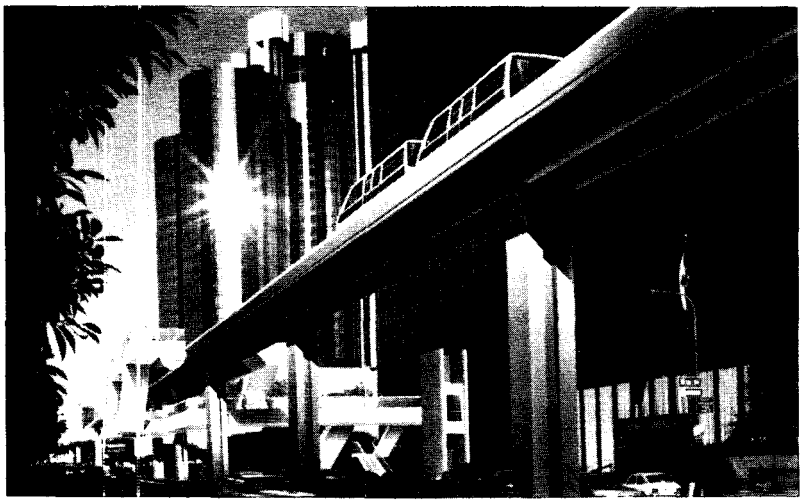

end up in North Hollywood, in order to attract commuters coming in to town from the San Fernando Valley.

The route is opposed by the influential Hollywood Chamber of Commerce and citizens in the Hollywood area and environs. They maintain that SCRTD has never given them a fair hearing on the route; two environmental impact hearings drew only about 50 persons each time. State Senate Majority Leader David Roberti, carrying the Hollywood cause in Sacramento, tacked on several amendments to the bill allocating $400 million for the subway. The most important addition requires the California Transportation Commission to review all of the transit district's data before any money is released. Two more public hearings will take place, giving the Hollywood groups a chance to air their grievances. They want the subway to go straight up Vermont from Wilshire to Sunset Boulevard, where it would veer west to Vine and then out to North Hollywood. Their proposal pits central West Los Angeles against Hollywood for the most direct benefits of the subway.

Another potential problem is the need to prove to the federal government that Southern California actually wants a subway system. Three voter turn-downs of mass transit proposals don't inspire federal confidence in LA's support of mass transit. If Washington approves the grant, the subway could be completed by 1987 or 1988. A total daily ridership of 600,000 is forecast.

• ***Increased Amtrak Service.*** In February 1978, Amtrak contracted with the Santa Fe Railroad to operate passenger service between San Diego and Union Station. During last spring's gas-line crunch, train ridership took a spectacular 60 to 70 percent jump. All previous passenger records between the two cities were broken, as 146,000 people climbed on board. Six daily runs — each train equipped with five cars of 84-passenger capacity — are currently on order, and ridership is still strong.

Because of this success, the County of Los Angeles and Caltrans want to offer the same type of service in the other direction, from Union Station to Oxnard, twice daily, with a passenger-load maximum of 1,100 persons per train. This time the government has run into the concerted efforts of the Southern Pacific not to comply. The railroad, which operates a profitable freight run along this line, has called in expert witnesses to testify that a passenger line is unrealistic and potentially harmful to industries relying on the freight service.

• ***Transit District.*** SCRTD is developing a "grid" system which it hopes to have in full swing by June 1980. This involves having all buses run north-south or east-west, in a criss-crossing pattern. Best of all for taxpayers, the simplification in the system will be handled within the existing budget. The district expects a substantial increase in ridership capacity from this change, which will affect 890,000 of the current riders.

The SCRTD must still contend with the oldest bus fleet (average age: 13 years) of any major city in the country. The federal Urban Mass Transit Administration has appropriated $149 million for 1,000 new buses, but increases in passenger demand have meant that the district has not been able to retire any of the old ones.

To help transit systems throughout the state, the Legislature passed SB 620 last June. The bill allocates $300 million of the mounting sales-tax revenues on skyrocketing gasoline prices over the next three years. Of that, half the money will go to rail, half to buses.

The love of cars

There is serious concern over the mass-transit future of Southern California, despite some encouraging progress. Transportation defines a region more than any other single factor, and the size of this region alone — two-thirds the size of Ireland — makes efficient travel difficult to achieve. With the cost of land decreasing as one moves out from the metropolis, developers continue to build — even as gas costs shoot well over one dollar a gallon — in the farthest reaches of the Simi Valley and of San Bernardino County. These are the only places left where a newcomer to the area can buy a home. Once there, they have no efficient way to commute to work except by car.

Also, Southern California has developed in the age of automobiles and cheap gasoline: In many communities, one must literally drive miles just to buy a quart of milk. Even more important is the area's psychological dependence on auto travel. The Transit District's Alice Wiggins does not jest when she says the principal problem is not technological but psychological: "Southern California loves cars."

It does not require a computer calculation to realize that — even assuming the existence of the Wilshire subway by 1990 — mass transit capacity will not be able to absorb 7 million persons who are using their autos 97 percent of the time for personal transportation. Even if those millions wanted to turn to mass transit, two out three persons would have to be turned away.

Only one conclusion is evident: When Southern California faces the gas shortages of the 1980s, it will face them with no genuine alternative to the car. Whether they like it or not, most commuters will have to sit in service station lines.

But some of them will be old enough to remember the Pacific Electric and its 1,200 miles of interurban lines. And as they wait to have their tanks filled — if it's the right day, if there is gas, if the station doesn't close before they get to the pump — they may ponder all the while: Whatever happened to the Big Red Car?

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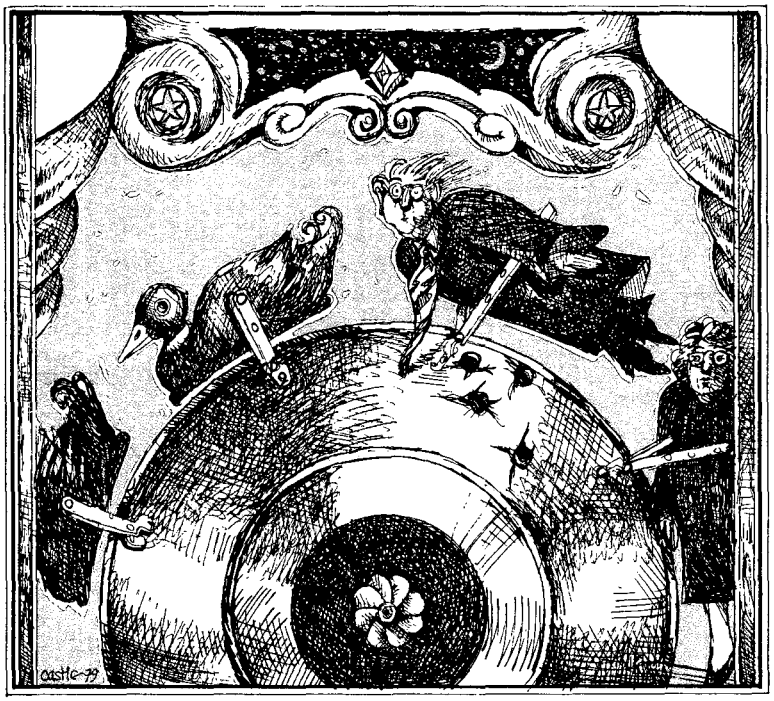
Richardson's attack on judges—most significant June ballot issue?

By Ed Salzman



The most important question before California voters in next June's state primary election probably won't be the selection of delegates to the Democratic and Republican national conventions. By the time the California primary rolls around, the contests may well be over. Nor will the most significant question be the choice of a Republican opponent for Democratic United States Senator Alan Cranston, who is rated a heavy favorite to win in November. There will be another issue before the electorate that could produce dramatic effects within the state's most important element of government, the judiciary.

Notice is being served that hereafter every judge in the state may become susceptible to the same political pressures as every other candidate for public office. This year, every superior court judge up for re-election to a new six-year term is being examined under a microscope by a pro-prosecutor organization headed by Republican state Senator H. L. (Bill) Richardson. Those who do not meet the standards of Richardson's Law and Order Campaign Committee will find themselves needing to run expensive campaigns to defend their records against high-powered opposition.

Last year, Richardson's organization targeted only one member of the judiciary, Chief Justice Rose Elizabeth Bird, and it came within a whisker of winning enough votes to remove her from the bench. If the 1980 operation is successful, the Richardson group plans to expand in future elections until it covers every rung in the judicial ladder from the municipal courts to the Supreme Court.

There are enormous implications in the attempt by the committee to extract judges from the comfort of relative political obscurity: Will many judges refuse to accept criminal calendars so they can avoid election-year hit lists? Will judges routinely be forced to raise large sums of money each election year? What will be the source of these funds? Is it proper for judges to use traditional campaign tactics, or do they detract from the dignity of the office? If law-and-order organizations are successful, will prosecutors develop a near-monopoly on judgeships? What will the effect be on the criminal justice system? Will liberal organizations counter-attack with big-bucks campaigns against conservative judges? Eventually, will the competition for judgeships produce the equivalent of partisan elections? In fact, will some future Democratic Legislature carry the trend to its logical conclusion and allow candidates for judicial positions to be identified on the ballot by political party?

Pattern of the past

Historically, there have been relatively few incumbent judges removed by the voters, especially in the large urban counties. Last year, some Jerry Brown appointees were challenged, and a few of them lost their judgeships. (Some were Superior Court judges subsequently placed back on the bench by Brown as municipal judges.) Judges usually are defeated when they have handed down exceptionally unpopular decisions or have been vulnerable because of senility or opposition from local lawyer organizations. Last year, Dave Ross, president of the Deputy District Attorneys' Association of Los Angeles County, paved the way for the Richardson campaign by issuing a call in a legal newspaper for prosecutors to run against judges considered to be soft on criminals.

What's new this year is the statewide assessment of judges being attempted by an organization with an ideological goal. In 1978, the attack was centered on Chief Justice Bird, who was known to the general public. In 1980, the targets will be judges known to perhaps 1 percent of the residents of the county; some of these judges may never have handed down a single ruling that ever made the front page of a newspaper. Quite a few judges have never presided at a criminal trial, because the bulk of the Superior Court workload is on the civil side.

The attack on trial judges comes at an ideal time for Richardson's committee. The public image of the judiciary has struck bottom because of the investigation of the Supreme Court by the Commission on Judicial Performance, because of the arrest of Appellate Justice Paul Halvonik of Oakland on marijuana charges and because of the revelations that Superior Judge Robert Stevens of Los Angeles made a series of sex-fantasy telephone calls to his former secretary in Sacramento.

Richardson himself is not handling the nuts and bolts of the judicial campaign. To do that, he has hired John Feliz, 32, who has taken a one-year leave of absence from his job as a sergeant in the Los Angeles Police Department to launch the campaign. Feliz says he confers about every two weeks

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with Richardson on the thrust of the campaign but that the senator keeps hands off the details of the operation. The first election campaign for the committee was in 1976, when Richardson attempted to defeat legislators he considered anti-law enforcement. The campaign was less than a roaring success. The next year, the committee spent $600,000 drumming up citizen support for an override of Governor Brown's veto of a capital-punishment bill. The organization takes credit for moving enough Democrats to the override column to win that battle.

The Bird campaign was Richardson's first direct foray into the judicial-election arena, but he was not alone in organizing a campaign to defeat the chief justice. (The other major group was run by former aides to Senator Ken Maddy and financed largely by agricultural interests.) Feliz joined the committee early this year after running an unsuccessful race as the Republican challenger to Democratic Assemblyman Richard Alatorre.

The salary victory

Under Feliz' leadership, the committee won a major victory this year when it went to court to prevent the state from paying the salaries of the Supreme Court justices. The committee charged that the justices were not entitled to be paid as long as cases were pending before the court for more than 90 days, and a Superior Court judge in Sacramento agreed. A follow-up audit by Controller Ken Cory also supported Feliz' contention. (The justices, incidentally, will collect the back pay if and when the court calendar is cleared of the backlog.) This move by the committee was designed to provide the public with a glaring example of abuse of power by the judiciary, Feliz says, and to inhibit the tendency of the court to resolve cases through judicial law-making rather than by deciding the issues on existing law. This is based on the assumption that it takes more time to establish policy than to interpret the law. In any event, the dramatic move by Feliz brought public respect for judges down another notch and helped prime the pump for the all-out effort against Superior Court judges next year.

How many judges will find their names on the committee's hit list next year? Feliz feels strongly that no more than 18 of the 208 judges up for election next year should be opposed by his organization. First, he doesn't want his resources spread too thin. Second, he doesn't think that more than 10 percent of the judges ought to be removed from the bench. "There are a hell of a lot of good judges," he explains. "About 30 percent are outstanding leaders, and some of them are liberals. About 60 percent are good judges, but they are not leaders. They just do the job. And about 10 percent are giving the judiciary a bad name."

Upon embarking on the Superior Court project, Feliz found that very few people had any idea who the judges were and what they were doing. He found only one organization, Earl Huntting's Citizens for Law and Order, that had made any sustained effort to keep tabs on the performances of judges. Huntting covered only a few Bay Area counties, and he was operating on a shoestring. So Feliz put together a team of researchers to compile background information on all judges up for election. He sent each judge a long questionnaire. He is attempting to establish advisory committees in each area to interview judges and make recommendations. These review committees will consist of local leaders who agree with the organization's stand on law-enforcement issues.

"But we are not going to give anyone a litmus test," Feliz adds. He says it is entirely possible that some conservative judges may get on the list if they are adjudged to be senile or otherwise incompetent. Eventually, the organization will publish a list of those judges it considers "most outrageous," and will help find opponents for them. Most of these challengers will be prosecutors or former deputy district attorneys. Background checks will be run on each individual who seeks to oppose an incumbent, to determine whether the alternative is any better than the sitting judge. The committee also will help some incumbent judges with opponents that do not meet the organization's standards.

The urban targets

Most of the judges on the hit lists will come from urban counties, and about half probably will be in Los Angeles. "These are the counties in which an individual gets lost in the shuffle and there is no accountability," Feliz emphasizes.

One of the key issues is the implementation of the determinate sentencing act, which forces judges to decide which of three sentences to give each convicted felon. Under this relatively new law, it is possible to compile statistics showing which judges hand out average, above average and below average sentences. Yet, Feliz feels the law is not being administered properly because there are tremendous sentence variations throughout the state and because plea bargaining is being used to evade the intent of the law.

How much money will Richardson raise for the campaign? He has set a target of at least $800,000, the amount he collected in his successful 1977 campaign for the death-penalty override. The money will be raised through a sophisticated direct-mail campaign run by Stephen W. Mitchell and Associates of Washington, D.C. The typical contributor is a 45-year-old woman in a lower middle-class neighborhood

18 questions

Lawyers and judges throughout the state protested after the Law and Order Campaign Committee distributed these questions to Superior Court judges scheduled to seek re-election next year:

- What is the primary purpose of the Criminal Justice System?
- Of the following branches of the Criminal Justice System, which do you feel to be the most important: rehabilitation, deterrence, retribution, restitution, and why?
- What is your opinion of the exclusionary (search and seizure) rule?
- Given that Californians rate crime as the state's number one problem, what do you feel could or should be done to improve our quality of justice?
- Do you feel that increasing sentences would affect the crime rate?
- Do you ever revoke probation?
- Under what circumstances?
- What is the purpose of bail?
- Should factors such as potential danger to the victim or potential witnesses be taken into account?
- What is your opinion of capital punishment?
- What effect do you feel gun control laws would have on violent crimes?
- Do you utilize alternative forms of sentencing?
- Under what circumstances?
- What is your opinion of determinate sentencing?
- Should time off for good behavior be earned or automatic?
- How do you feel about judicial elections?
- What is your opinion on Judicial Sentencing Disclosure?
- What would you want your constituents to know about you if you were opposed and running for office?

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with a concern about the degeneration of discipline in America, the committee has determined. She will send about $10 and will get a periodic newsletter from the organization. Odds are only 8-7 that she is a Republican.

The committee's candidates will not be run as a slate — that's hardly realistic. It will be up to local groups to tailor each campaign to the community and to raise funds locally. How much money each candidate will get will depend upon the results of the appeal, the cost of obtaining funds and the number of incumbents that get help.

Ross will probably play a major role in Los Angeles. The 37-year-old president of the 400-member prosecutors' organization wants it made clear that he is acting independently both of the Richardson committee and the association he heads. He is interested only in judges handling criminal cases and wants information published regularly on their sentencing records. He intends to continue his campaign to encourage prosecutors to seek judgeships, but he knows of only one in Los Angeles who is already organizing a campaign.

Why aren't Feliz and Ross working hand in hand? One reason is that, Ross says, "I don't always approve of all the techniques used by the committee." That was an obvious reference to the way Feliz distributed questionnaires to judges asking their views on the criminal justice system and more. Some judges howled that the source of the questionnaire was unclear, and they were given indications that it was part of a student research project. Feliz himself concedes that he probably should have shown the questionnaire to legal organizations before using it. But he makes it clear that he probably would not have changed a word. The key element in judging the judges appears on the committee's summary sheet: "Tendency to impose appropriate sentences." (See box for the 18 questions in the committee's basic questionnaire.)

Heavy attack

The questionnaire came under heavy attack within the legal profession. An organization called the California Attorneys for Criminal Justice asked the State Bar to investigate whether attorneys and law students working for the Richardson committee had violated any rules of professional conduct. The request was made by the organization's president, Charles R. Garry, who received worldwide publicity as counsel for the People's Temple. Wrote Garry: "We understand that deceptive practices may have been used in an attempt to entice Superior Court judges to respond to a politically loaded questionnaire. The questions constitute an invitation to the judges to violate the Canons of Judicial Ethics by commenting on legal issues pending before them."

Directly and indirectly, the committee has been attacked by Chief Justice Bird and many other members of the bench. State and local bar officials have accused the committee of attempting to politicize the judiciary. The outgoing president of the California Judges Association, Harry A. Low of San Francisco, warned of a danger that judges will start deciding cases "with the roar of the crowd." The Richardson-Feliz challenge poses a dilemma for judges. Should they go out and raise money for traditional campaigns? Or should they maintain low profiles and try to convince the public that the judiciary will be harmed by undignified politicking?

So far, the latter course has been followed. The Los Angeles Superior Court recently celebrated its 100th anniversary. Presiding Judge Richard Schauer made a point of the fact that there was no fanfare, consistent with the "low judicial profile" prescribed for judges by the constitutional separation of powers. But once the campaign begins and the Law and Order Campaign Committee establishes its hit list, it will be every incumbent for himself or herself. Those judges who hope to survive had better start raising money in a big way and start emulating politicians. Where will judges, especially those who are not independently wealthy, raise campaign bankrolls that may have to exceed $100,000?

Richardson's organization has inserted a new dimension into judgeship contests — an independent citizens' committee outside the legal community. Traditionally, judges facing opposition go back to their pre-judiciary political friends if they have maintained these ties. Otherwise, they try to get a few attorneys to raise money for them. Feliz feels there is no proper way for a judge to raise money. "Judges are left out of political view," he added. Since nobody knows anything about them, the only people who contribute are those with a financial interest in court decisions." Thus, judges will be opposed for the most part on their criminal sentencing records but will seek funds from those interested almost exclusively in civil cases.

The danger of corruption

Preble Stolz, a professor of law at the University of California in Berkeley, feels that the fund-raising procedure carries the danger of corrupting the state's judiciary. This is because parties to civil suits — doctors, insurance firms and others with large sums at stake — will establish financial links to judges through campaign contributions. The solution, according to Stolz, is the establishment of campaign-contribution limits, something that has been declared unconstitutional by the United States Supreme Court for legislative or executive offices. Stolz feels that there might be a constitutional basis for limits covering judicial races. A judge, explains Stolz, is not supposed to be susceptible to the demands of the general electorate but is supposed to be limited to what the law allows. In a conflict between the roar of the crowd and the law, a judge is required to follow the law.

The Richardson committee recognizes that ballot-box conflict is not the ideal way to upgrade the judiciary. The committee's attorney, John T. Doolittle, has just finished drafting a judicial-appointment reform plan that will be introduced by Senator Richardson in the Legislature next month. Key features of the proposed constitutional amendment:

- *All judicial appointments would be subject to Senate confirmation.*
- *The State Department of Justice would conduct detailed background investigations of each nominee.*
- *A permanent investigative staff – with minority and majority counsels – would be established by the Senate Judiciary Committee to investigate every appointee.*
- *No individual could be appointed to an appellate court without at least two years of experience on a trial court. (This would have banned Bird from the Supreme Court.)*
- *Terms of justices on the Supreme Court and courts of appeal would be reduced from 12 to eight years.*

Richardson realizes that this proposal has relatively little chance of getting the necessary two-thirds vote in both houses of the Legislature. But he is going to give it a try before starting to mount an initiative campaign on behalf of the reform plan.

In the meantime, he will be busy trying to rid the system of the 10 percent of judges he rates as "outrageous." But the Law and Order Campaign Committee realizes that its effort may result in public opposition to all judges and not just to those on the hit list. In that case, there isn't a judge in California — except those who run unopposed — who doesn't face the real threat of removal from office. That's why the fight over judgeships may be more important for Californians next June than even the presidential primary.

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KING (ED) CARTER AND THE 75 CORPORATE KNIGHTS OF

The California Roundtable

By Tony Quinn

It is somewhat like John Kennedy's quip that the greatest gathering of talent at the White House may have been when Thomas Jefferson dined alone. Any meeting of the California Roundtable is, by definition, the greatest gathering of corporate power and talent to be found west of Wall Street.

The little-known California Roundtable is a voluntary association of the presidents, chairmen and chief executive officers of California's largest and most powerful corporations. About 75 corporate heads form the Roundtable's board of directors, and if the name of the Roundtable itself is unfamiliar, the names of some of its officers and directors may ring a bell.

There is current chairman Ed Carter of Carter Hawley Hale Stores, David Packard of Hewlett-Packard, Justin Dart of Dart Industries, Robert Fluor of Fluor Corporation and Helen Copley of Copley Press. Members also include political activists like Walter Shorenstein, a Democratic party fundraiser, Jaquelin Hume, long active in Republican affairs, and William French Smith, Ronald Reagan's personal lawyer. Among the better-known chief executives active with the Roundtable are A. W. Clausen of Bank of America, George Shultz of Bechtel Corporation, Roy Anderson of Lockheed and Fred Hartley of Union Oil.

What brings all these people together? The California Roundtable is patterned after the Business Roundtable in Washington which exists to promote a pro-business position in national policy-making. The California Roundtable's goal is exactly the same: to foster a pro-business, pro-free enterprise climate in California government. "We want business leaders to make their voices heard, to be effective in advancing our positions," says Roundtable chairman Carter.

One chairman and three vice-chairmen, with the positions usually rotating between Northern and Southern California, run the organization, assisted by a 25-member policy committee. Each member company pays annual dues based on its size. Those companies with after-taxes profits in excess of $75 million pay $10,000 annually. Other participants pay $5,000, $2,500 and $1,000 in dues. The Roundtable maintains an administrative office in Burlingame.

Off the sidelines

The Roundtable is not just a business lobbying operation or an association of corporation giants. Neither is it, as some critics charge, a "secretive committee" bent on ruling the state. Rather, it represents an organized effort to marshal California's major corporate leaders into influencing government policy-makers directly.

For many years, California businessmen were satisfied to advance their goals through traditional organizations such as the Chamber of Commerce and through lobbyists for the various interest groups. The corporation heads themselves, somewhat disdainful of the often grubby world of politics, usually remained on the sidelines. Politically active corporation presidents often helped out with fund raising and sometimes participated as members of a gubernatorial "kitchen cabinet." But direct, day-to-day contact with the politicians was usually shunned.

Then came Watergate and other embarrassing revelations of corporate misconduct, the Arab oil boycott and the gasoline shortage, and a rising anti-business feeling in the country. The Business Roundtable in Washington emerged to help stem the anti-business tide, and several corporate leaders in California, led by Packard, Dart and Southern Pacific chairman Ben Biaggini, saw a need for a similar organization in California, particularly after the election of Jerry Brown as governor.

The California Roundtable was formed to battle what was

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perceived as an anti-business attitude in the Legislature and the governor's office — but to do so in a different way than before. Business leaders were urged to look beyond their own narrow concerns and to address the larger issues of the state's economic policies. For instance, although many individual businessmen supported Proposition 13 in 1978, in anticipation of major business tax breaks, the Roundtable as an organization opposed Proposition 13, fearing long-term economic damage to California. It backed the more moderate Proposition 8, then being championed by Governor Brown.

Persuasive contacts

Brown greeted their support of his position by embracing the Roundtable as part of his rightward thrust following passage of Proposition 13. This assisted the Roundtable in two of its long-term goals: increasing big business's credibility in Sacramento and keeping the organization's image non-partisan. Business has always had problems with its credibility, especially with those who dismiss its legislative goals as little more than special breaks for the corporate community.

The Roundtable has tried to mold a new image for business by stressing broader concerns. The tax revolt has proven a useful tool in this regard because it has allowed business to push popular goals such as reduced government spending, lower taxes and reforms in the bureaucracy.

Roundtable leaders insist they are not just an appendage of the state Republican Party, although most of the members who have been active in politics are found on the Republican side. But the Roundtable's success depends on persuasion, and most of the people to be persuaded are Democrats. The Roundtable neither makes campaign contributions nor gets directly involved in campaigns; thus it hopes to avoid the partisan label often applied to other business groups.

The Roundtable operates through personal contact of corporation heads with major decision makers. Each corporation president or chairman is expected to name a deputy, usually his company's vice president for governmental affairs, who handles day-to-day contacts. Edward Carter's deputy, Donald Livingston, a former official with the Reagan Administration, has arranged several sit-down meetings between the corporation chiefs and legislative and administration leaders. This led to the Roundtable playing a role in formulating and marshalling support for various state policies following Proposition 13.

Deputies also coordinate Roundtable activities with business-oriented lobbying organizations such as the State Chamber of Commerce, California Taxpayers Association and the California Manufacturers Association. Kirk West, executive director of the California Taxpayers Association, contends the Roundtable's Sacramento activities have been beneficial in helping shape the state's post-Proposition 13 fiscal picture.

The Roundtable has set up a string of task forces, each chaired by a corporation chief executive. About a dozen task forces are grouped under three headings: communications, issues analysis and Sacramento relations. Probably the heart of the communications effort is the "Government Key Contact" program. This involves an effort to convince every company in the state to designate one official to keep in touch with public officials, particularly those representing the company's home base, so that government may be informed on issues the company considers important. A Roundtable brochure explains how to organize a "key contact."

Issues analysis includes one unique task force on corporate standards of performance, which in 1978 commissioned a 125-page study of corporation statements on ethics and

behavior. The study was to assist companies in putting together guidelines on business ethics. Other task force projects in the issues analysis field: a loaned-executive program which encourages Roundtable members to make their own experts available to public agencies, and development of business position papers on current issues. A 1979 study looked at energy use from the users' rather than the producers' perspective.

Votes and districts

California Roundtable intends to have its greatest impact, though, in its third area, Sacramento relations. Included here are personal contacts with government leaders, a task force to coordinate activities of business and taxpayer associations in Sacramento, and perhaps the most controversial of Roundtable's activities, elections liaison.

The elections liaison task force, headed by Wells Fargo Bank chairman Richard Cooley, moves Roundtable directly into the political arena, a step that may not please every politician. One elections liaison project is a Roundtable contract with California Research to prepare detailed legislative voting records on bills of interest to business. This includes not only floor votes but the often more important votes in committee, and covers literally dozens of topics and bills. The voting records will be analyzed and the results made available to Roundtable members.

With this activity the Roundtable is copying the successful voting-behavior studies of groups like the environmentalist Legislative Birdwatchers. The results will not only cover a few highly publicized votes, but the whole range of a legislator's votes over a two-year session.

This task force is also charged with increasing business' direct political role. In May it published a booklet, "Seeking Public Office: An Analysis of Laws Governing Employer and Employee-Candidate Relationships." The objective: to encourage companies to allow their executives and employees to run for office, and to support them when they do. The Roundtable is convinced that business will get a better break if more candidates with a business background are elected to office.

By far the most ambitious, and probably the most expensive, Roundtable project takes the organization into the murky field of legislative redistricting. In 1981 California will reapportion its legislative and congressional districts. Roundtable members have become convinced they should play a role in this process.

This no doubt comes as a surprise to many politicians, who have always guarded jealously the power to redistrict. But the drawing of district lines determines who gets elected and who passes the laws. Thousands of dollars and man-hours spent lobbying legislation or trying to elect favorable candidates may go for naught if the deck is already stacked against business interests.

According to Kirk West, corporation leaders came to realize the importance of redistricting when they began analyzing legislative behavior. In district after district the

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populace seemed to support pro-business ideas, such as reduced taxes and cuts in government spending, but the legislators elected from these districts constantly voted more liberally. Figures were produced showing that Republicans would have to win 55 percent or more of the statewide vote to win a majority of Assembly or Senate seats.

Roundtable analysts concluded that legislative districts were drawn to favor liberals and Democrats, and that if they wanted to affect legislation in Sacramento, they would have to affect the district lines. West believes that business people are long overdue in getting politically active. Trying to influence the 1981 redistricting process may be one way to do so.

It will hardly be easy. Jackson Schultz, Cooley's deputy with the elections liaison task force, insists that the reapportionment effort will try very hard to avoid a Republican label. "This is not a GOP-Roundtable effort to get more Republicans elected to office," he says. But the Democrats are likely to be in charge of reapportionment in 1981, and any attempt by businessmen to suggest district lines giving conservatives a better chance at election could well be greeted as a Republican plot.

Schultz and other Roundtable leaders concede this, and thus they intend to form alliances with other interested parties to push "good-government" reapportionment plans. "Our ultimate goal is competitive legislative districts," says Don Livingston. "We don't think reapportionment should be left just to the legislators. We want business to understand the process and play a role in it."

A $600,000 data base

The Roundtable's strategy for reapportionment is to have access to their own data base of demographic and political factors, so they can analyze legislative districting proposals and possibly come up with some of their own. Roundtable directors have authorized an expenditure, which could go as high as $600,000, for this undertaking, including a major contract with the Rose Institute at Claremont Men's College to provide the data base.

Alan Heslop, director of the Rose Institute, was a consultant for the Republicans in the 1971 reapportionment. He long has believed that more fingers than just those of the politicians should be in the reapportionment pie. Heslop cites the interest of minorities in fair representation, of cities and counties in not having their communities divided, of the political parties in maximizing competitive races. He sees business' interest in reapportionment as preventing a gerrymandering of California so as to permanently entrench an anti-business majority in the Legislature. Roundtable strategists have come to believe that, given the current liberal legislative leadership, Assembly and Senate seats could be drawn in 1981 to protect legislative incumbents more liberal than the public at large.

The Roundtable reapportionment strategy is still in the preparatory stages. Roundtable leaders are uncertain about how to affect the complex process, but there is agreement among people like Livingston and Schultz that some involvement in reapportionment is essential. Yet they recognize the dangers. Big business doesn't generally spend its money for altruistic purposes only, and liberals are likely to view reapportionment suggestions from the Roundtable with a jaundiced eye. Livingston and others hope to overcome this by forming some unusual alliances in their endeavor.

For instance, no one on the Roundtable expects a redistricting plan with a clearly pro-business bias to emerge, so the goal is a plan with a greater number of competitive districts. This dovetails with the objective of the political reform group Common Cause, which is pushing a bill to establish a non-partisan reapportionment commission to redistrict the state. If Roundtable and Common Cause join forces to advocate competitive seats, the union on this issue would be unusual; often the two are at loggerheads on other issues.

Hispanics complain that inner-city districts often divide their natural areas of strength, so the Roundtable could find itself allied with Mexican-American leaders behind a plan more advantageous to minorities. The current district lines were drawn by the state Supreme Court in 1973. The courts may also play a role in 1981 reapportionment, another factor in Roundtable thinking.

The Rose Institute has an extensive collection of political data from past elections; sophisticated use of that data could make the Roundtable a factor in the next redistricting. Business leaders already have shown a growing interest in direct political activity. The major political action group for big business in California is United for California, an Orange County-based campaign committee which gave $278,000 to legislative candidates last fall. United for California is separate from the Roundtable, although many of the individuals active in the Roundtable are also on the board of United for California.

Choosey on candidates

In past elections United for California would give to almost any candidate running on a free-enterprise platform, but in 1978 United became very choosey. Its biggest contributions, $36,800 and $35,000 respectively, went to two Republicans, James Nielsen and Marz Garcia, who were running against entrenched liberal Democratic senators. United had carefully analyzed these districts and determined that Nielsen and Garcia had chances at upsets. Both won, as did John Schmitz, another $30,000-plus recipient, all in close races.

This experience helped convince business leaders to carefully select political objectives and to make sophisticated use of resources. Business has a good role model: Labor unions, through devices such as AFL-CIO's Committee on Political Education, operate this way. Unions have groomed favored candidates for office, and the Roundtable hopes to convince its member companies to do the same.

If successful in reshuffling the legislative deck, the Roundtable could find itself a major behind-the-scenes player in California politics. But it is a risky endeavor too; not everyone in California welcomes the involvement of California's corporation chief executives in direct political action.

California Roundtable's political objectives, Southern Pacific's Biaggini has said, "are not a question of any one politician, but of heading off a move toward socialism." The Roundtable claims it wants only a California political climate more receptive to the concerns of free enterprise.

In the immediate post-Watergate years, business tended to shy away from direct involvement in politics. The Roundtable is changing all that, with California's top business leaders wading into the deepest pools of political activity. How well they tread the water remains to be seen.

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What is there to fear from the state's religious cults?

Wilson Riles, state Superintendent of Public Instruction, has been using the following argument in an attempt to dissuade Californians from supporting the proposed voucher plan to finance the state's elementary and secondary schools: "The voucher plan would permit anyone, any cult, any creed, to run a school supported by state funds. That means tax support for schools operated by the Ku Klux Klan, the People's Temple, the 'Moonies,' the Neo Nazi Party, the Manson Family, or any of the hundreds of other cults which flourish in the rich soil of California."

Is there anything to fear from the operation of voucher-system schools by religious cults? How do these cults recruit their members? Why are young people attracted to some of the cults? How do deprogrammers turn cult members back to their families? And what are the legal rights of cult members? These are among the questions explored in the following article by Barbara Underwood, a free-lance writer and former recruiter and national campaigner for the Unification Church. She and her mother have written Hostage to Heaven, *an account of her four Moonie years, her "Faithful Five" court battle against her parents and her eventual deprogramming.*

By Barbara Underwood

"Would you like to find an ideal community? . . . Loving people building an unselfish world? . . . A God you can know directly . . . Just what you've always wanted? . . . Come join us for dinner."

Such an invitation might have been offered by a recruiter from any of a hundred cults. Hare Krishna, Children of God, Divine Light Mission, Summit Lighthouse and Unification Church — these are only a few of a bewildering proliferation of cults operating in California and throughout the United States. Followers number between 1 and 2 million; most are young and idealistic.

These true believers pose serious, sometimes heartbreaking challenges to parents, lawmakers, psychologists, theologians and lawyers. Most of their groups are known as "high-intensity" cults because each professes absolute truth, claims a divinely inspired leader and applies strong emotional pressure on members and prospects. In case after case, friends and relatives of cult members have observed sudden personality changes in recruits.

Meeting on a bridge

What follows is a recent conversation between a 10-day Moonie recruit and his father, who had flown to the Unification Church's Calistoga retreat to visit his son in "Camp K." Although parents are sometimes turned away at the gates of the training center, the father in this case was allowed to chat with his son in the presence of two Moonie "brothers". The scene is a bridge inside the guarded gate:

"Son, your mother and I love you. We'd never harm you. We're concerned about your freedom. Why can't you come talk to us alone?"

"Dad, I've promised God I'll stay here. Satan's beyond those gates, not God. I know you'll try to deprogram me if I go with you."

"We just want to make sure you're fully informed about the group you've joined."

"Dad, the leaders told me you've probably hired some thugs that'll beat God out of me. I don't want Satan to enter me and so I'm staying here. That's final."

"Jesus, we'd never hurt you. Don't you trust us?

"Dad, I don't know. I can't."

"Son, if I were dying, would your leader let you out of here to see me?"

"Maybe, maybe not. I'd have to ask."

"Dear God, what have they done to you?" (The father broke down.)

"Dad, you gotta be strong." (The son turned away.)

In only 10 days, an affectionate relationship between father and son had been replaced. The new recruit was now accepting total control over his actions and words by his newfound cult leaders. How can so much power be exerted in such a short time?

To answer that question, it is necessary to understand the process of recruiting and the appeal of cult philosophy. Recruitment techniques vary from cult to cult. In Guru Maharaj Ji's Divine Light Mission, for example, "premies" (devotees) solicit through personal witnessing to friends and strangers. The mission's newspaper ads invite people to discover "new techniques of meditation." An initial soft-sell approach is used by Scientology "public registrars" who allude to universal problems or concerns and then invite prospects to attend a $50 course in "communication techniques" designed to "clear" the minds and control the emotions of the students.

By contrast, the Hare Krishnas are easily identified by their shaven heads and saffron-colored robes, except for those members selling flowers in airports who wear conventional clothing. Thus, persons who are recruited by Hare Krishnas are usually aware of their choice. Children of God tactics are designed to implant fear of the coming apocalypse or to unnerve a prospect with predictions of doom.

In the Unification Church, a sophisticated, hard-sell approach is used in a process often called "love bombing."

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Moonie teams look for young idealists who haven't formed any opinions about cults. Many recruits are travelers, often from abroad, who are met at subway-station entrances and bus stations or in popular tourist areas such as Golden Gate Park and the Cannery in San Francisco.

The prospect is attracted to the sincere and smiling faces of the Moonie recruiters, who offer familiarity, warmth, attention and then a "family dinner." At the dinner programs in Berkeley or San Francisco, the prospect is not told that he or she is the guest of the Unification Church. The hosts and hostesses come across as enthusiastic, loving, professional, self-confident and generous people. Then comes an invitation to spend a weekend on a beautiful farm in Napa Valley. To refuse seems rude; the newcomer wants to prove his or her openness, trust and idealism.

In addition to individual recruitment, the Unification Church organizes campus campaigns to attract academicians. It sponsors dialogues with theologians and stages conferences to attract scientists. Last spring, the church organized the first "Student Banquet for Professors" in San Francisco, under the sponsorship of a group called Collegiate Association for the Research of Principles (CARP). About 5,500 Bay Area professors were invited to the Sheraton Palace Hotel; 40 attended.

CARP has about 200 full-time members whose job is to roam the nation's campuses and establish new branches. The church became embroiled in a controversy while attempting to set up a recognized organization at Stanford University. At issue was the legitimacy of the signatures on the petition submitted to the Office of Student Activities. Thom Massey, director of student activities, refused to grant the organization official status, claiming that some of the signatures had been forged by CARP members from Berkeley. Jim Dougherty, a CARP spokesman and Berkeley student, stated that the organizers were "getting a lot of pressure from the administration. The administration was supposedly pressing students not to become involved."

The 'Faithful Five'

Cult leaders claim their recruitment programs are simply religious conversions, not unlike those experienced by members of any faith. They say that many people are searching for God, for communal values, for meaningful discipline and enlightened authority in a world filled with liberalism and individualism. Yet there are some observers, like Berkeley psychologist Margaret T. Singer, who allege that many cults employ roughly the same mind-control techniques as used by the North Korean Communists during the Korean War. These techniques, sometimes called "coercive persuasion," are at the center of the legal dispute that has erupted over the rights of cult members.

In March 1977 a court battle in San Francisco — one that became known as the case of the Faithful Five — spotlighted the issue. The parents of five adult Moonies sought to gain custody of their offspring and to give them an opportunity to hear a viewpoint critical of the Unification Church. The parents — Underwoods, Browns, Katzes, Hovards and Kaplans — argued that their children should be allowed to assess their commitment to the church based on free will and informed consent, rather than on deceptive persuasion. After 12 days in court, the parents were appointed temporary conservators of their children. Their petitions alleged that the conservatorships were necessary because their children were of unsound mind, unable to care for their property and were "likely to be deceived or imposed upon by artful or designing persons." The church was accused of "brainwashing" the children.

Three of the five Moonies were "deprogrammed" and eventually agreed to the conservatorship. The other two appealed and won a Court of Appeal order vacating the remaining temporary conservatorships. (One of the two left the church; the other returned.) In reversing the lower court, the appellate justices found that the petition cited reasons that were too vague to be applied in proceedings that deprived adults of freedom of action. The justices held that the temporary orders violated the children's rights of freedom of religion and association. The state Supreme Court declined to hear the case, leaving the appellate court decision as a precedent for later cases involving cults. And the cults were supported by the American Civil Liberties Union, which traditionally defends the right of individuals to hold unpopular beliefs.

Despite the Faithful Five decision, there are major legal issues still unresolved. Richard Delgado, a University of Washington law professor, claims that there is nothing in law to prevent government from curbing abuses by religious groups that use "high pressure, harmful, and deceptive tactics in recruiting and indoctrinating young members." Delgado says that some ex-cult members told him that obedience was so absolute they would have killed their parents if commanded to do so by their leaders. But the burden of proof for Delgado's position lies in presenting evidence that members are recruited by deception and without informed consent and that they are held captive. The key, then, is the enlistment process. Delgado claims that cults use freedom of religion as a means of denying freedom of thought and that they give false information to recruits.

For illustration, take the case of any Unification Church recruit. Delgado claims that the prospective member should be given the following facts in order to make an informed and realistic commitment: that most members recruit or raise funds 16 to 18 hours a day; that members lead spartan lives but their leader does not; that Reverend Moon is considered the Messiah; that every member must surrender all

of his or her possessions within three years; that members submit to arranged marriages in a mass ceremony; that all members must sacrifice career, family and friends to the new truth.

Few recruits are aware that a dinner invitation "to meet a loving community" was offered by a Moonie or that the weekend in the country was at a Moonie indoctrination center. If the prospect asks whether his or her hosts were Moonies, the answer is probably, "Oh, no, we're independent of them — but we study some of Reverend Moon's ideas along with Jesus, Moses, Buddha, Confucius, Maslow and Einstein." Delgado and others who oppose cults claim that government interference is warranted when deception is used for recruitment, because there is no freedom of religion without full information and free thought.

The civil liberties questions do not end there. What about the process of deprogramming? Doesn't that also deny freedom because it can be used to change an individual's views

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against his or her will? Cults have filed criminal and civil suits against parents and deprogrammers in an effort to reinforce the Faithful Five appellate-court decision.

Deprogramming has become a negative word; cults describe the process as "witch-hunting" or "religious McCarthyism." There have been accusations from cults that deprogramming employs such tactics as incarceration, profanity, sexual and drug temptations, beatings, water torture and rape. All these tactics are used to break the faith of members, cults have charged in court.

While there have been numerous cases of parents hiring persons to remove their children from cults — either legally or illegally — such tactics rarely are used, according to most observers. The basic method of deprogramming is to challenge the total commitment of the true believer, both emotionally and intellectually. Deprogramming can only succeed if an individual has initially been programmed by a cult process, experts say. With the exception of Ted Patrick and Joe Alexander, two well-known professional deprogrammers, most persons working in the field are ex-cult members. They are effective because they can relate to the doubts and fears which the cultist represses due to guilt over impurity of faith. To be successful, the deprogrammer must treat a member with respect and dignity. Deprogramming should distinguish totalitarianism from self-determined commitment, idolatry from genuine worship, instant comradeship from intimacy and the obligations of fear and guilt from personal free will.

The debate over deprogramming centers on differing interpretations of freedom. Opponents argue that it constitutes an attack on freedom of religion and amounts to a "counter-brainwash." Civil liberties attorneys supporting the cults say that deprogramming is a tool employed by parents desiring to reassert their influence over children who have rejected them and their values. Defenders of the process point out that almost all of those who complete deprogramming later say they could not have regained their freedom without it.

Law professor Delgado has recommended that deprogrammers follow certain guidelines to avoid conflict with constitutionally guaranteed rights. Involuntary programs should be undertaken only if there are judicial determinations that individuals are incompetent or under mind control, he says. Therapy should never aim to destroy religious beliefs. And certain basic due-process procedures should be followed prior to deprogramming. These recommendations are similar to the appellate court decision in the Faithful Five trial.

As a matter of public policy, which process poses the greater harm — trying to deprogram a cultist from a blissful and secure world, or leaving a person in a cult with the potential for mind manipulation and social violence? In defending the Unification Church, the American Civil Liberties Union faces another dilemma: It supports the right of individuals to hold unpopular beliefs, but it also endorses strict separation of church and state. Such separation is a system preferred by the devil, say the Moonies.

The overall goal

The cult culture is controversial in areas beyond those of constitutional rights. In October 1978, a congressional subcommittee on international organizations issued a report charging, among other things, that the Moon organization "had systematically violated U.S. tax, immigration, banking, currency and Foreign Agents Registration laws, as well as state and local laws relating to charity fraud, and that all these violations were related to the organization's overall goal of gaining temporal power." The Unification Church published a statement denying many of the charges. The Moonies claim the biggest problem faced by the church is the unfair and adverse press that Reverend Moon and his followers consistently get. As one Berkeley member declared, "There's a mountain of negativity and a molehill of objectivity."

But it is virtually impossible to find an objective view of cults. One father of a Moonie, obviously biased, made an attempt at a cost-benefit analysis after spending a weekend in a Moonie workshop in California. His conclusions:

Benefits: love of others, love of God, living hopes, optimism, loving community, responsibility to act on ideals, love of beauty, love of country, freedom from sexual pressures, seeking one's value.

Costs: loss of freedom, loss of family, unethical conduct, intolerance, anti-Semitism, condoning of war, acceptance of perfection of Moon as Messiah, forgoing intimate love and self-chosen marriage, personality destruction, loss of independent thought.

In the continuing debate over cults, what's needed is a modern Solomon to provide the balancing test between freedom of thought and freedom of religion.

MOON MARRIAGES

To many parents of Unification Church members, Reverend Moon's view of marriage is especially disturbing. Marriage partners are often arranged by Moon in mass rituals.

Here is how the press reported a ceremony last May in New York: Some 1,410 men and women crowded into the grand ballroom of the New Yorker Hotel, owned by the church. Moon called forth all black men and white women willing to marry outside their races. Later, he called forth other combinations of blacks, whites and Asians. Moon suggested partners for each person. When there were objections, he tried other combinations. In two days, 705 couples were united, about one-third of them interracial.

Said the *Boston Globe:* "For some parents of young members of the controversial church, the mass matchmaking is the fulfillment of a nightmare, a rite solidifying their son's or daughter's membership in an organization they fear or don't understand."

What is a Moon marriage like? A couple can meet only with a chaperone and can be separated for up to three years. This is because the church teaches that original sin — mankind's separation from God — started in the Garden of Eden when Lucifer (a spiritual being) literally tempted Eve and they engaged in sexual intercourse. Later, Eve infected Adam with sin before God sanctified their union. Moon's marriages are an attempt to restart with purified couples who have been cleansed by following the Messiah (Moon) and who will bear offspring free of original sin at the designated time. Before that appointed time, the partners must not have lustful thoughts for one another.

How do Moonies justify participation in these marriages? Explained one of them: "You try to have confidence in your prayer life — that God knows what is best for you, that He will work through Reverend Moon to suggest the proper match for you." Church leaders emphasize that arranged marriages are common around the world. The United States is one of the few places where a romantic notion of wedlock predominates, they say.

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Initiative fever: Many try, but few reach the ballot

By MAUREEN FITZGERALD

The passage of Proposition 13 by California voters last year supposedly unleashed a flood of initiatives in the state. It appears that everywhere you turn in California today, you find someone soliciting signatures for a proposed ballot proposition. At present, there are signature-gathering efforts under way for measures that would cut state taxes, establish a voucher system for operating the public schools, inhibit rent control, tax windfall oil-company profits, establish off-track betting — and perhaps do a dozen more things.

At a glance, it appears that Proposition 13 has indeed spawned a dramatic upsurge in the use of the initiative in California. But the upsurge didn't start in June of 1978; rather, it began about a decade ago. And while the number of petitions being circulated is running high, the percentage qualifying for the ballot is at a record low. Among those proposals now in the circulation stage, only a couple appear to have a good chance of qualifying for the June 1980 ballot. Perhaps two more have a shot at the November 1980 ballot.

The hottest measure now on the political horizon is the new tax-cut proposal by Proposition 13's Howard Jarvis. The Butcher-Forde campaign organization in Orange County, which is managing the signature-gathering drive for Jarvis, reported in mid-November that some 750,000 signatures were in hand. It is especially noteworthy that virtually all of the signatures were obtained through a mail-solicitation campaign employing sophisticated computer letters. There has been no use of the traditional card-table-in-the-shopping-center approach. The Jarvis proposal would cut the state income tax in half and also make two other tax-law changes that in fact have already been adopted by the Legislature: elimination of the property tax on business inventories and cost-of-living indexing of the state income tax.

ILLUSTRATION BY KELLI BULLOCK

Getting on the ballot

The initiative process was placed in the state constitution by Governor Hiram Johnson and the Progressives in 1911 as a means of reducing the power of the railroad barons. Once a proposed measure has cleared channels in Sacramento, the proponents have 150 days to gather the necessary signatures of registered voters. Eight percent of the votes cast in the last gubernatorial election — or 553,790 signatures — are required to qualify a constitutional amendment. Five percent or 346,119 are required for a statutory initiative. (The statutory initiative was established to prevent the addition of verbiage to the constitution, but there have been relatively few of these put before the voters.)

The use of the initiative has varied greatly over the past 68 years. It was extremely popular from its inception through the 1940s. There was an all-time low in the 1950s, when only 17 proposals were circulated. In the first nine years of this decade, 138 were circulated.

While it is relatively easy to draft an initiative and get approval for circulation, it requires a major effort and perhaps hundreds of thousands of dollars to round up the required valid signatures. Look at some statistics compiled by the secretary of state's office:

1912-1958 — 134 of 223 proposals, 60% qualified for the ballot.

1960-68 — 9 of 38 or 24% qualified.

1970-78 — 21 of 138 or 15% qualified.

Despite the fact that proportionately fewer proposals are qualifying, the rate of voter approval has remained remarkably consistent over the years: 27 percent through 1958 and 30 percent thereafter. Only 10 initiatives have been approved by the voters since 1960, and relatively few of them are still in effect. The courts have frequently found initiatives unconstitutional, either in their entirety or in some major respects. For example, two 1972 measures dealing with school busing and the death penalty were ruled unconstitutional. The Jarvis-Gann measure cleared its first Supreme Court hurdle with flying colors, but some key issues remain to be tested.

For many years, the initiative was used by those outside of government who could not get what they wanted from the government. In recent years, however, there has been a tendency by those inside government to resort to the initiative when they cannot get the votes from their colleagues in the Capitol. When former Governor Ronald Reagan could not get the Legislature to adopt his plan to limit government spending, he went to the people (and lost). State Senator John Briggs went the initiative route with bills to strengthen the death penalty and to prevent homosexuals

Maureen Fitzgerald is the director of a "Citizen Democracy" project being conducted by the Journal *with assistance of a grant from the Ford Foundation.*

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from teaching in the schools. Senator Alan Robbins tried unsuccessfully to get enough signatures for an anti-busing measure, but he later won legislative approval for the ballot proposal.

This does not happen to be the case among those initiatives now on the horizon that have the best chance of passage. Here is a rundown:

• ***Jarvis tax cut.*** Unless reports from Harvey Englander of Butcher-Forde are grossly over-optimistic, the Jarvis measure should make the June ballot with ease. The mailings not only bring back signatures but also campaign contributions that are used to finance additional computer mailings.

• ***Rent-control opposition.*** A coalition called "Californians for Fair Rents" is sponsoring a proposal that would ban statewide rent control and require a vote of the people in any community seeking to impose it. In addition, any measure adopted through local vote would become inoperative after four years unless it were approved by the electorate. The coalition is composed of construction-industry, labor, apartment, real-estate and financial interests. The campaign is managed by the Woodward-McDowell organization in San Francisco, and some 200,000 signatures had been gathered by mid-October. Jack S. McDowell of the firm said he is shooting for a June vote but may not be able to make the deadline. He is confident that enough signatures will be gathered for a November showdown if the June deadline is missed.

• ***Smoking restrictions.*** Once before, Californians seeking to limit smoking in public places qualified a measure for the ballot. A Woodward-McDowell campaign, backed by tobacco industry millions, defeated it in November of 1978 (Proposition 5). Now, Paul Loveday of the anti-smoking group is arranging to have the new initiative managed by Butcher-Forde, and he is confident that the proposal will qualify for the November 1980 ballot.

• ***Oil profits.*** Bill Press resigned as head of Governor Brown's Office of Planning and Research to head an initiative campaign to place a heavy state tax on windfall profits of oil companies. Press, who has been trying to build his own political base, said late in October that $75,000 had been raised and 110,000 signatures had been collected. Announcements of high oil company profits have helped the campaign, but it will take heightened activity to produce enough signatures to make the June ballot.

• ***Vouchers.*** Among three plans dealing with the financing of the public schools, the one with the best shot at the ballot is the so-called voucher proposal of Berkeley professors John Coons and Steve Sugarman. Under the scheme, parents would be given educational vouchers which they could redeem either at public schools or at private schools meeting criteria set down in the plan. The Sandford Weiner campaign firm is attempting to get the signatures, but money has been short and Coons is vague about the number of signatures already collected — usually a sign that a drive is falling short of the mark.

Money or workers

It takes either a great deal of money or a dedicated army of workers to qualify an initiative for the ballot. The late Ed Koupal, head of the People's Lobby, had a theory that enough card tables with aggressive solicitors could produce enough signatures to qualify almost anything for the ballot. He reported that about 75 percent of those approached signed on the dotted line as requested. Most people don't read petitions and take the solicitor's word for what the initiative would do. Koupal's workers tried to avoid discussions with citizens. "Why try to educate the world," asked Koupal, "when you're trying to get signatures?"

Koupal and his co-sponsors of Proposition 9 in the 1974 election (the Political Reform Act) attempted to limit the amount that could be spent on signature gathering and the subsequent initiative campaigns. Courts struck down these provisions, and there now are no limits as to how much anyone can spend to win an initiative contest. According to the state Fair Political Practices Commission, spending on initiative campaigns totaled $36 million from 1972 to 1978. The most expensive campaign came on the 1978 smoking proposal — a total of $7.1 million, including $6.4 million in the successful drive to defeat the proposition. Behind that measure came the Proposition 13 battle, $4.3 million, and the 1976 nuclear-energy fight, $3.8 million.

Despite the success of the big-money opposition to the smoking measure, there is insufficient evidence that the side with the most money invariably wins initiative contests. In 20 campaigns in this decade, the side spending the most money won 12 times and lost eight times. In some of those races, money was not a significant factor (death penalty, for example). In the case of Proposition 13, the successful "yes" side received its money primarily from relatively small grass-roots contributions. The losing "no" side was bankrolled by wealthier business and labor interests.

Proposition 13 can be given credit for one new element in initiative campaigning in California: It has bred its own children, starting with Paul Gann's "Spirit of 13" measure, approved by the voters last month, and continuing with Howard Jarvis' proposal to reduce the income tax. There are also observers who feel that there may be a series of educational-finance measures placed before California in future years. Their scenario goes like this: The courts will continue to require busing of students for integration purposes, despite the passage of Proposition 1 on November 6th. The entire measure may be declared unconstitutional, or it may have little effect because of a change in federal court guidelines on busing. In any event, there may well be attempts to change the school system in other ways if busing continues. The voucher plan, for example, would allow parents to select neighborhood schools for their children (public or private) without regard for racial factors. Also on the horizon is a tax-credit proposal of the National Taxpayers Union which would make it financially attractive for more parents to send their youngsters to private schools.

New hope and trial balloons

With few initiatives actually qualifying for the ballot, why are there so many Californians soliciting signatures for so many proposals? The reason may well be that Howard Jarvis and Paul Gann, who had failed in previous attempts to qualify initiatives, have kindled the fire of hope in many others with their sudden success. Others are floating trial balloons in the expectation that their proposals will catch the public eye, as did Proposition 13. And the sponsors of initiatives have some sound reasons for believing that the public may respond:

• ***Dissatisfaction with government is increasing.*** These feelings are fueled by inflation and the deterioration of the American standard of living. Deserved or not, the burden of blame falls on government officials.

• ***In California, the credibility of the Legislature has been reduced*** and the public has lost confidence in Sacramento's ability to solve problems. The overwhelming enactment of Proposition 13 and the rejection of the Legislature's Proposition 8 was a strong rebuke to lawmakers.

• ***Complex financial, legal and educational issues are now ripe*** for the initiative process. In the days of Hiram Johnson, the initiative was designed to break the railroad grip on state government. As used today, Johnson's reform strikes at the very foundation of our republican system — as a weapon of the people to grasp control of public policy from their own elected representatives.

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ILLUSTRATION BY GRACE MATEU

THE LES/NES MONSTER

The political mayhem over bilingual education

By Eric Brazil

How should the state's public schools teach children who speak little or no English? That sounds like a fairly simple educational question. But in Sacramento last September it became a political hot potato. And unless the opposing forces manage the compromise which eluded them last fall, bilingual education looms as the first nasty scrap on the Legislature's 1980 agenda.

Assemblyman Dennis Mangers, a former educator and a moderate Democrat from Orange County, is marshalling support for a bill that would make big changes in the state's $150-million-a-year bilingual education program. But he faces resourceful opponents who are convinced that Mangers' approach involves unnecessary, radical surgery on a program that needs only a few adjustments and more time to prove itself. Mangers' opposition prevailed this year, but the struggle left hard feelings all around.

Can bilingual education be handled by the Legislature as an educational issue in an election year? It seems unlikely, based on what happened in the last session. The entire issue provides a classic example of total politicization of an educational program.

How it began

California passed the Chacon-Moscone Bilingual-Bicultural Education Act of 1976 to comply with the U.S. Supreme Court decision *(Lau v. Nichols)* requiring public schools to conduct educational programs in a language students understand. Its intent is "to offer bilingual learning opportunities to each limited-English-speaking pupil enrolled in the public schools," to enable them to function in the educational mainstream. The state Commission on Teacher Preparation and Licensing estimates the number of limited and non-English-speaking (LES/NES) students at 329,000 — and growing. Eighty percent of all LES/NES students are Hispanic.

Criticism of the program began almost immediately:

- ***The State Department*** of Education and school districts were charged with inconsistency and inflexibility in implementing the Chacon-Moscone Act, by both the legislative analyst and the auditor general.
- ***State Superintendent*** of Public Instruction Dr. Wilson Riles has acknowledged widespread confusion among districts over the act's requirements, as interpreted by his department.
- ***Critics say the act*** has been misapplied, causing thousands of students whose English is better than their primary language to be stuck in bilingual classes.
- ***Some districts moan*** about the burden of providing bilingual classes with the specially certificated bilingual, cross-cultural teachers the law requires for every class with 10 or more NES or 15 or more LES pupils.
- ***The overriding criticism*** is that the act goes too far and warps the intent of *Lau v. Nichols*. The act is actually encouraging maintenance of the child's primary language and culture rather than mastery of English, its critics claim.

The program's defenders concede there are some kinks in it but say it works in districts which are giving it a fair try and that it's only sound educational practice to teach in the language a child knows best. Besides, they contend, it has been in place only two years and the returns are not yet in. To scrub it now would border on the malicious and would reward those who want to see it fail.

At one extreme in the bilingual education debate are those who fear its use will make California "another Quebec" with two languages and competing cultures. At the

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other extreme are those who contend that there is a move afoot to wipe out bilingual education altogether and return to the old, discredited "English-as-a-second-language" method of teaching LES/NES students.

In the Legislature, the dispute centered on two competing bills. One was a Department of Education-backed bill (AB 690) to repeal the Chacon-Moscone Act and replace it with one putting greater emphasis on English. The other, AB 507 by Assemblyman Peter Chacon of San Diego, left the act bearing his name intact but refined exit criteria from bilingual classes and clarified district guidelines.

Mangers seized the issue early in the session with a bill he authored, AB 800. But he was persuaded to yield to Democratic Assemblyman Richard Alatorre of Los Angeles, who had agreed to carry the Department of Education bill. (Much of Mangers' bill was subsequently amended into AB 690.) The tactical theory was that changing the bilingual education program would be easier if a Hispanic author were at the controls of the reform vehicle.

Alatorre's bill cleared the Assembly easily, even though some conservatives grumbled that it didn't go far enough. By the time it arrived in the Senate Education Committee, however, the opposition had coalesced and amended reforms of the 1976 act into Chacon's bill.

The 'English-dominant' issue

The major difference between the two bills is in their treatment of those LES children who are shown by tests to be "English-dominant," even though their primary, home language is something else. The Alatorre bill challenged the assumption that a child not fluent in English learns better in his or her primary language when taught by a bilingual, cross-cultural teacher. It proposed teaching all English-dominant children — half or more of the state's LES population — in an extended English program with monolingual teachers.

California has 5,500 certificated bilingual, cross-cultural teachers, plus another 4,000 teaching on waivers. It needs an estimated 15,000, and Mangers contends that, given the increase in the state's Hispanic population, it will never train enough. Besides, he says, if his approach is adopted, the requirement for specially certified teachers will be reduced to a realistic level.

The two bills proved unreconcilable. Legislative egos and vested interests among educators played a big role in the failure, as did ethnic politics; but there were solid educational reasons for it too.

Mangers put the case for the AB 690 approach to county school superintendents last October in exhorting their support. The existing program ignores individual differences and in its broad-brush approach is over-prescriptive, he said. If children are English-dominant, "it might be a nice idea to teach them English language skills . . . not put them into a setting in which they are learning U.S. history and other academic subjects in a language in which they are uncomfortable and which they do not understand."

The goal of bilingual education, Mangers said, should be to "teach these youngsters the language arts so that they will read and write and speak and spell this beautiful language of commerce and culture in this state, to the end that they will be competitive out there in the labor market and find their place in the economic sun and have those things their parents have not had."

The case for Chacon's bill was advanced by several educators during a seminar conducted last August by the Senate Finance Committee. They maintained that tests used to ascertain linguistic dominance are imprecise. Also, they said, such testing fails to consider that many youngsters actually are more fluent in their home language than in English, but they strive to appear to function better in English to please the testers.

Thomas Arciniega, dean of the college of education at San Diego State University, said AB 690's big error is its assumption "that all there is to assessing where to place these kids is figuring out which of the two languages they 'sound' most dominant in for school purposes." In fact, Arciniega said, "there is little evidence to support the contention that the problem implied is a major one . . . Nor is there evidence to support the contention that those supposed LES/English-dominant kids are indeed not better off in the bilingual programs."

The real danger, Arciniega said, "is the self-fulfilling prophecy aspect. By changing too early, and again and again, the basic legislation governing bilingual education, you are insuring that the results will be negative or, at best, disappointing."

Pure politics

Neither the Senate Education Committee nor the Finance Committee ever got around to examining the educational meat of either bill in any depth. It was pure politics all the way, and by session's end the debate had taken on a hard ethnic edge. (Delegates to a Chicano civil rights conference, held in the Capitol while the issue was simmering, voted out a resolution favoring Chacon's bill with the alacrity it might have shown for choosing good over evil — and with rhetoric to match.)

When the bills went before the Education Committee in July, members threw up their hands and voted out both, warning of fratricide in the Hispanic community and beseeching both sides to work for a compromise.

Finance Committee chairman Senator Albert Rodda of Sacramento, a former educator whose interest in bilingual education goes back to the first steps taken by the state in 1964, assumed the role of compromiser. He got a big headache for his trouble. The essence of the Rodda compromise was that AB 690 and AB 507 become law interdependently ("double joined"), and that districts be given the option of choosing between them.

Leaders of the Chicano caucus — which includes the Legislature's six Hispanic members — were furious. "A slap in the face," said Chacon. "It's an insult." (The caucus had offered its own compromise: a plan to pilot Alatorre's program in half a dozen districts. It was defeated in committee.)

"Totally unacceptable," said caucus chairman Senator Joseph Montoya of La Puente, who accused Rodda of a fast shuffle.

Even supporters of the Alatorre-Mangers approach were dismayed. The compromise would only make the situation worse, because "the fight you see here will go on in the school districts," said Mary A. Bergan, lobbyist for the California Federation of Teachers. In the tumult and shouting, Alatorre, getting two blasts of editorial heat from the *Los Angeles Times* and complaints from Hispanic con-

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stituents, dropped his bill. So did Chacon. Most of the Hispanic organizations which had supported Alatorre's bill peeled away.

Rodda, hurt and puzzled by the rejection of his compromise, blames it on "gnostics — to whom all truth is revealed." He had the committee votes to pass AB 690, and AB 507 was a dead duck, Rodda maintains.

Then Mangers scrambled to pick up the ball Alatorre had dropped, but Alatorre refused to let him take over AB 690 as lead author. After a series of strenuous and exotic procedural maneuvers, Mangers and Rodda managed to amend the bill into a distantly related measure, SB 220 by Senator Ray Johnson of Chico, which was yanked off the inactive file. The bill passed the Senate, 26-0, on the last day of the session.

Another try

Mangers plans to incorporate SB 220 into his own bill, AB 800, and make it the vehicle for bilingual education reform when the Legislature gets back to business. He claims the support of Speaker Leo McCarthy and enough votes to pass it. Rodda is agreeable, but he laments that "the spirit of compromise has evaporated." He is openly worried that "an over-emphasis on culture" in bilingual education "can contribute to the emergence of a society which is divided and can reinforce segregation, which will be called pluralism by some."

While the debate wore on in the legislative corridors, both Chacon and Montoya lambasted Mangers for opportunism. They implied that Mangers was trying to ride a racist groundswell into the job of state superintendent of public instruction, a post he already has announced he will seek in 1982. Mangers has since said, "I'm trying to do everything I can to make it an educational issue, not an ethnic issue," but he admits that he's braced for tough election-year criticism when he runs for re-election next year.

The word from Governor Brown's office during the debate was that he would veto any bilingual reform bill which would be divisive in the Hispanic community. However, Mangers says that his discussions with the governor lead him to believe Brown's mind is still open on the subject.

Michael Kirst, president of the State Board of Education, was a strong supporter of the Alatorre-Mangers approach. Kirst had hoped for a quick victory during the past session, and he doesn't share Mangers' optimism about next year. "People are happy with the Chacon legislation as the ideal thing they could get from their perspective . . . There's no incentive to change. They'll hold on where they are and only give up when they're against the wall," Kirst says. "Will we ever get someone like Alatorre in the future to stick his neck out again and fight for it?"

Supporters of the Chacon-Moscone Act program view the options built into Mangers' plan as destructive of the whole bilingual education effort. "When you give people options, they tend to follow the . . . option of least resistance, thereby buying more time, really, not to address the issue," says Thomas F. Lopez, chairman of the California Association for Bilingual Education.

The association is working on a reform bill of its own, Lopez says, and "the Chicano caucus has agreed that whatever bill is carried, they all have to agree on it. You're going to see a united effort behind the caucus in January."

Significant Court Actions

The commission's non-report

Following an 11-month investigation of the state Supreme Court, the state Commission on Judicial Performance issued a three-page statement on November 5th that concluded the probe but hardly shed light on the serious charges brought before the commission. The report expressed regret that the commission was unable to tell the public how or why it had reached the conclusion that "no formal charges will be filed against any Supreme Court Justice."

The commission had been thwarted in an attempt to conduct on open hearing by a suit brought by Justice Stanley Mosk. A special ad hoc Supreme Court was formed to hear the Mosk challenge, and the panel ruled unanimously that the commission's proceedings had to be conducted behind closed doors. The investigation was launched at the request of Chief Justice Rose Bird after newspaper reports suggested that a decision in the *Tanner* (use-a-gun, go-to-prison) case had been delayed until after the 1978 election to help her. There were also charges that two justices had violated rules of confidentiality.

The commission recommended that the constitution be changed so that future probes can be held in public. Assembly Speaker Leo T. McCarthy announced that he would form a committee to study methods of improving the judicial investigation system.

At the time the report was issued, Supreme Court justices were not being paid — the result of a Sacramento judge's ruling that they had held cases beyond the 90-day maximum. (The high court has done this by starting the calendar at the time the case was concluded, rather than when all the arguments were submitted.) State Controller Ken Cory reported that his auditors had found more than 20 cases that had been held more than 90 days. Nevertheless, he went before an appellate panel in Sacramento and requested that he be allowed to pay the justices pending a final decision in the case. In any event, the justices will be allowed to collect their back pay at any time that the 90-day backlog is eliminated.

While working without pay, the court issued a decision amending its previous holding that police could not conduct warrant checks on motorists after stopping them for traffic violations. The new ruling allows police to make warrant checks if they can be done without detaining citizens unreasonably. Police claim that the computerized checks can be made while a traffic ticket is being written.

In another case, the court let stand an appellate court ruling that banned retroactive application of a new law extending parole time. The result was the release of some 1,400 convicted felons from parole and about 75 from prison.

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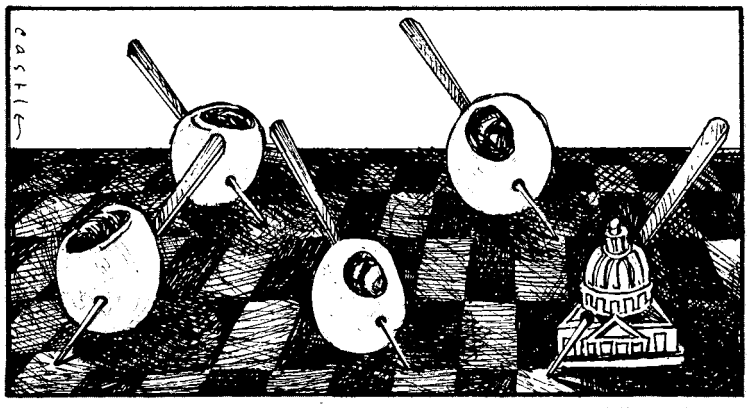
HERB-ASIDES

By Herb Michelson



Although the state profits during periods when the Legislature is out of session — no session, fewer silly bills — the "political" bars of Sacramento suffer in these times.

Frankly, it is not much fun drinking in Sacramento without our legislators. The only people in places such as The Torch Club, Incorporated, David's Brass Rail, Ellis, The Lobby and Posey's the past couple of months have been legislative analysts, legislative analyst groupies and Mike Gagan, the deputy secretary of state in lieu of March Fong Eu, last seen setting up an exploratory committee in Goa.

Gagan is, at least, catholic in his tastes when it comes to Sacramento's political bars. He visits them all, or sends representatives on the chance belief bartenders are not yet registered voters, which most aren't now that bars do not have to close on election day.

What happens in Sacramento's political bars when the Legislature is *in* session is something you'll never read about from yours truly or any other political typist worth his/her salt. (Lot's wife, for example.) That's because the in-session events in The Torch Club, Incorporated, David's Brass Rail, Ellis, The Lobby and Posey's are officially off-the-record; declared so at a meeting of the Capitol Correspondents' Association (in yet another political bar, Frank Fat's) on October 12th, 1957, at a time when the Legislature was, of course, not in session.

However, events do occur at the political bars. Thus, for those of you who might someday have business in Sacramento (for instance, the need to ask Gagan where March Fong Eu was last seen), here's a capsulized but charmingly thorough rundown on the aforementioned *boites:* who's there, what it's like to be there, and the answer to the question, "Is there any there there?"

• ***The Torch Club, Incorporated:*** Subject of a recent purge by the state Alcoholic Beverage Control Department for reasons best known to the state Alcoholic Beverage Control Department and its snitches, The Torch Club, Incorporated, remains the finest bar for letting down one's hair. In the evenings, The Torch, as it is known to the bloc of Republican freshmen from Southern California who've, regrettably, taken it over, has a marvelous jukebox; a dozen quaint local characters ranging from Joe the Booster, an alleged booster, to Stan the Man, a retired cab driver; moonlighting waitresses, who will never reveal what they're moonlighting from, and the firm's vice-president, one Ron Texeira, a retired jockey conversant in six languages, including Bureaucratese and Portuguese. The Torch can best be enjoyed between the hours of midnight and 1:45 a.m., a period in which almost anything can be best enjoyed.

• ***David's Brass Rail:*** An unincorporated establishment presided over by people named Gilbert, Pat and David Chow, the latter so inscrutable that even *he* has no idea what he's talking about. David's, as it is called by the gubernatorial staff which occasionally, hourly, stops there, has the advantage of being the closest best bar to the Capitol, if you don't count brown-bagging Boone's Farm Loganberry in Capitol Park. Pat, whose last name is Brawley, is an affectionate person who will (1) mother you, if that's your bag; (2) interpret David; (3) interpret state government. Pat Brawley is a very wise person and may be the acting governor of California for all any of us knows.

• ***The Lobby.*** I have been in The Lobby only twice. Both times I was in The Lobby the only person I saw in The Lobby, aside from the staff of The Lobby, was Gray Davis, Pat Brawley's predecessor as acting governor of California. Now you know who goes into The Lobby.

• ***Ellis.*** This place, known to the thousands of lobbyists who frequent it as Ellises, is the only underground political bar in Sacramento, meaning you have to walk down a flight of stairs to get there. Ellises had the advantage of being the closest bar to the office of state Treasurer Jess Unruh and is the lone political bar serving passable freebie hors d'oeuvres, explaining the constant patronage of state Treasurer Jess Unruh. Ellises is in the same building once occupied by the office of Secretary of State March Fong Eu when March Fong Eu was secretary of state.

• ***Posey's.*** Because Posey's is the only major political bar on the south side of the Capitol, I have never been there. The only reason I know Posey's is there is that Mike Gagan told me Posey's is there.

• ***Frank Fat's.*** Which is where legislators eat their dinner after drinking an earlier dinner at numbers 1 through 5 (that's assuming there *is* a Posey's). Fat's, as its diners have labeled it, has a rear section for covert political dining, an area fancied by former acting Governor Jerry Brown, who was enamored of Fat's because he could eat without anyone paying any attention to him — a harbinger of his presidential campaign.

Herb Michelson is a columnist for the Sacramento Bee. *He is also the unpaid press secretary of the Gagan-for-Governor campaign committee.*

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Special-election surprises: lifting of the interest limit, close SF mayor race

Balloting on four statewide propositions in the November 6th special election produced only one surprise — the overwhelming victory for Proposition 2, which lifted the 10 percent interest-rate ceiling on some business loans. On two occasions in 1976, California voters rejected almost identical proposals. Why success this time around? Among the explanations: People now realize that a 10-percent rate is unrealistic; a low turnout (estimated at 40 percent) was beneficial to business interests; the proponents conducted a more effective campaign than they did in 1976.

The other major surprise was the poor showing by San Francisco Mayor Dianne Feinstein. She polled only 42 percent of the vote and faces a runoff this month against Supervisor Quentin Kopp, who took 40 percent of the vote. Kopp, a conservative, came from far behind in the polls. Feinstein, a moderate who took the office following the assassination of George Moscone, had expected to win a four-year term with relative ease. (In another Bay Area election, former Democratic state Senator Arlen Gregorio made a political comeback by winning a seat on the San Mateo County board of supervisors.)

California voters left no doubt how they felt about the two most publicized statewide measures — Proposition 1, designed to halt forced busing of students in Los Angeles, and Proposition 4, the new Paul Gann "Spirit of 13" initiative intended to restrict state and local government spending. Both were approved by huge margins. Here are

Feinstein

Kopp

the complete results of the statewide vote on the four propositions:

Proposition 1 (busing)	
Yes	*2,406,830 (69%)*
No	*1,101,022 (31%)*
Proposition 2 (interest rates)	
Yes	*2,232,618 (65%)*
No	*1,224,819 (35%)*
Proposition 3 (property taxes)	
Yes	*2,496,790 (76%)*
No	*791,128 (24%)*
Proposition 4 (government spending)	
Yes	*2,553,120 (74%)*
No	*881,164 (26%)*

The effectiveness of Proposition 1 will be determined by the courts, not by the voters, however. A suit has already been filed challenging the constitutionality of the measure on the ground that it calls for racial segregation. Even if that fails, there are major legal questions. The proposition requires that integration standards of the federal Supreme Court be followed by state courts. But the difference between the U.S. and California Supreme Courts on the issue has been narrowed considerably by recent decisions. Furthermore, it is entirely possible that the state courts will rule that busing is needed to meet the old federal standards (intentional rather than *de facto* segregation).

There is also doubt about how effective the new Gann measure will be in attaining the goal of reducing government spending. The main ingredient in the spending formula is the cost of living, and the rate of inflation has changed dramatically since the initiative was drafted. In addition, there are major elements of government spending that are exempted from the limits. During the campaign, many liberal Democrats — including Assembly Speaker Leo T. McCarthy — joined forces with Gann after realizing that the proposal would not force significant cutbacks in government programs and may allow government to do business as usual.

There was no organized opposition to Proposition 3, which allows property taxes to be computed in a different way without changing the amount each parcel owner will pay.

Newsmakers

Clearance for Curb

Attorney General **George Deukmejian** reported that his office found no evidence to corroborate allegations that Lieutenant Governor **Mike Curb** illegally sold records to organized-crime figures while president of MGM records . . . Appellate Judge **Paul Halvonik** was ordered to stand trial in Oakland on felony marijuana charges. His wife, **Deborah Hinkel Halvonik,** refused to enter a drug-diversion program and also will stand trial on felony drug charges . . Superior Judge **Robert S. Stevens** of Los Angeles admitted that he engaged in lewd telephone conversations with a Sacramento couple but denied that it was against their will. His conduct is being investigated by the Commission on Judicial Performance.

University of California President **David Saxon** has been hired as $2,000-a-day research adviser by the Ford Motor Company. Saxon earns $78,750 a year from the university . . . State Democratic Chairman **Richard O'Neill** won approval for his plan to hold a presidential preferential poll at the January 20th party convention in San Francisco . . .

State Senator **John Schmitz** launched an initiative drive to end the Republican Party's winner-take-all presidential primaries . . . **Martin Huff** announced that his resignation as executive officer of the state Franchise Tax Board will become effective December 31st. He will assume the presidency of the California Tax Reform Association and campaign for the enactment of a new state income-tax law . . . Former state corrections chief **Ray Procunier** was appointed top aide to Sheriff Eugene Brown of San Francisco.

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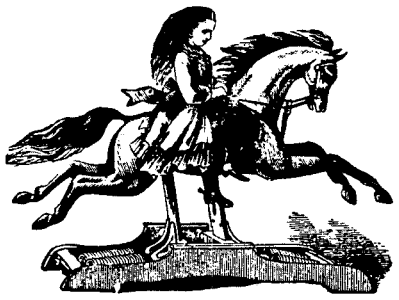

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Selected Government Reports

Decision Makers, seventh edition, by the League of Women Voters of the Bay Area, through a grant from Chevron U.S.A., Inc. 1979. A biennial directory of commissions, agencies and districts in the San Francisco Bay Area. 32 pp. Available from the League, 4095 Malone Drive, Napa, CA 94558. ($1.75 including postage)

California and the World: A Directory of California Organizations Concerned with International Affairs, by the Center for California Public Affairs, Claremont Colleges. 1979. 68 pp. ($12.00 plus tax and $1.00 handling). Also, **U.S. Government Offices in California: A Directory,** by the Center for California Public Affairs, Claremont Colleges. 1979. 114 pp. ($15.00 plus tax and $1.00 handling). Both available from the Center, 226 W. Foothill Blvd., Claremont, CA 91711.

Regulating Campaign Finance: The California Experience, by J. Fred Springer and Allen D. Putt for the Institute of Governmental Affairs, University of California, Davis, 1979. An assessment of the impact of California's Political Reform Act of 1974 on the state's electoral process. 35 pp. Available as Series II, No. 13, from the Institute, UC, Davis, CA 95616. ($3.00)

California Courts of Appeal: Internal Operating Practices and Procedures, by the Administrative Office of the Courts. 96 pp. Available from the AOC, 601 McAllister St., San Francisco, CA 94102.

State Legislative Leadership, Committees and Staff: 1979, by the Council of State Governments. A compilation of legislators, aides, committees and staff members of all states, with addresses and telephone numbers. 220 pp. Available as RM664 from the Council, Iron Works Pike, Lexington, Ky. 40578. ($13.00)

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Latest campaign tool: the unrestricted absentee ballot

By KATHRYN EAKER

"It's the best thing the Democrats have done for us in a long time," grins Peter Bontadelli, Senator Ken Maddy's legislative aide.

Bontadelli was referring to last year's change in the election law which lifted restrictions on absentee voting. No longer must a voter be ill or absent from his or her precinct to request an absentee ballot.

And no longer must the voter state any reason for an absentee ballot request. It is now possible for any voter to ask for a ballot, mark it at home and mail it back to the registrar of voters.

Democratic Assemblyman Richard Lehman, author of the legislation, says it merely made the law conform to current practice and also provided some uniform standards. Before the law, six counties already were granting absentee ballots without asking voters to explain why they wanted them. Many other counties had set their own requirements. No county was following up to see if absentee applicants were truthful, and no penalties existed for lying.

But after the liberalized absentee ballot law passed, it took very little time for candidates to figure how to put it to work for their benefit. Democrats and Republicans alike have moved quickly to pick up votes from the stay-at-home crowd.

Early roundup

The first systematic use was made in the Long Beach special run-off election to fill Attorney General George Deukmejian's Senate seat. Democrat Renee Simon rounded up 63 percent of the 2,800 absentee ballots cast — more than double the number that a Democratic candidate normally gets in that district.

Running in a conservative district, Simon's campaign was ailing and needed a transfusion. Then someone discovered Lehman's law. Simon people sent brochures urging all registered Democrats "to vote for Renee Simon by mail in the convenience of your own home." Also, Simon forces canvassed minority areas where turnout was traditionally light. They carried absentee ballot applications and later returned with the absentee ballots. After voters filled them out, workers carried the ballots back to the registrar of voters' office.

By the time Simon's opponent, Republican Ollie Speraw, got wind of the operation, it was too late to fight back. The day before the election, Speraw people admitted the Simon absentee campaign might affect the outcome. They charged "fraud, deception and pressure tactics." Assemblyman Dennis Brown claimed he had names of voters who were told by Simon people they not only had to vote absentee ballot but had to vote for Simon. But Speraw won, with 57.3 percent of the vote.

Simon campaign manager Jerry Zannelli says the charges are absurd. There were two instances of alleged abuse but no evidence of illegality, he says. Zannelli believes that if he had had more time, the Simon absentee voter program might have turned the election. But he sees absentee voting campaigns as merely this year's gimmick. "One year it was pot holders, then computer letters, then folding lawn signs. Next year it will be emery boards," he says.

After the Long Beach election, Republican Assemblyman Dennis Brown introduced legislation to re-establish absentee ballot requirements. The measure died in the Assembly Elections and Reapportionment Committee. Brown questions the value of voting-made-easy and the integrity of a vote cast in the presence of a campaign worker.

The next absentee campaign came in the San Bernardino city council election. Two candidates, Luther T. Fair and Ralph Hernandez, took full advantage of the new law. Both of them solicited and collected absentee votes before the polls opened. Hernandez won by five votes, but his "innovative and creative" tactics have raised questions about violation of the intent of the absentee voting law.

Hernandez added a new twist to absentee voter campaigning: He had 40 absentee voters' ballots mailed, apparently with the voters' consent, to his home or to the home of his campaign manager. He was then in a position to carry the ballots directly to the voters, help them fill out the ballots and personally deliver the ballots to the city clerk. Out of 800 absentee ballots cast, 250 were a direct result of Hernandez' work.

Presently no law prohibits a third party from opening an absentee ballot. Critics of the liberalized absentee law warn

Kathryn Eaker is a free-lance writer in Sacramento.

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that an over-zealous campaign worker might "lose" or "misplace" a ballot cast for the "wrong" candidate. They also worry that the next step in absentee voter campaigns will be to hire professional signature collectors, such as those paid to qualify initiatives. Such paid workers could collect absentee votes almost as easily as they distribute campaign literature, critics say.

Whose benefit?

Statistically, the unrestricted absentee law should benefit Democrats. They have 56.4 percent of all registered voters statewide, so getting more people to vote ought to enhance Democratic chances. But absentee returns traditionally have been more conservative and more Republican than the general turnout on election day. Although outnumbered in registration, the GOP voters have been more reliable, using absentee ballots to get their votes counted even when it was more difficult to do so.

Before the special election last summer in the central valley to replace state Senator George Zenovich, Assemblyman John Thurman requested an opinion from the secretary of state's office regarding the techniques used in the Simon absentee voter campaign. Anthony L. Miller, chief counsel, advised Thurman that the Simon campaign had been a proper use of the new law. Upset Republicans thought they saw Lehman's law winking at Democrats. Ironically, it was Thurman's opponent, Republican Ken Maddy, who used the law most effectively in the race for the 14th district seat.

Republican national and state committees strongly urged Maddy to generate an aggressive absentee voter campaign, and they provided $15,000 for the job. Here is how it worked: First, a pre-primary mailing went out to all voters including absentee ballot applications. Then a general election mailing explained the new law and how to use it. Later a "voter-gram" from Lieutenant Governor Mike Curb coaxed all recipients to "vote-by-mail." Finally, phone banks followed up on the earlier approaches. Although the phone banks got some requests for absentee ballots, neither Maddy nor Thurman used workers to deliver ballots. Dave Townsend, Thurman's campaign manager, said there was not enough time for that.

Fifty-five percent of the absentee ballot applications came in as a direct result of Maddy's program, according to campaign estimates. Between the primary and the general election Maddy increased the absentee vote by 850. Since he won by only a 680-vote margin, "it can be argued," says campaign manager Peter Bontadelli, "that the difference in the absentee vote put Maddy over."

What happened to Thurman's absentee voter campaign? Three factors were limiting: money, loyalty and time. The Democratic State Committee gave Thurman $5,000 for his program. But Thurman could not send absentee vote applications to all registered Democrats in the district, because too many central valley Democrats are notorious switch-voters. So Thurman had to mark time until the primary established voting patterns. By then it was a case of too little, too late. Says Townsend, "Absentee voter programs are one way to build an electorate, and in a heavily Democratic district they will boost turnout. But theories fall by the wayside when the other candidate has more money."

The potential use

The Maddy-Thurman campaigns increased the absentee vote 40 percent over previous elections. In a local contest, special election or primary in which voter turnout is low, 4 or 5 percent can make a difference. Compared to a media campaign, an absentee voter program is less expensive and perhaps more effective. But a heavy statewide drive is not likely because such a program takes time, effort and competent organization, plus a strong volunteer force.

Lehman's law is not the only reason that absentee voter programs may become popular in future campaigns. A recent court decision permits political parties to use the 2.75-cent bulk rate for their activities. Since voter education and increasing voter participation are party responsibilities, absentee voter programs can be considered a legitimate extension — and at bargain postal rates.

Recently the state attorney general's office issued an opinion that anyone may distribute an absentee ballot application, but that the ballot must be picked up and returned in person or by mail. Exceptions may be made in hardship cases spelled out in the election code.

Assemblyman Lehman concedes that the new law has caused some problems. He expects the statute to be amended to prohibit third-person handling of absentee ballots, with exceptions made at the discretion of registrars of voters or county clerks.

For the past 20 years the trend has been toward liberalizing the election process. Lehman's law is in keeping with that goal, but is it also the first step toward a universal vote-by-mail system? No one seems to think so. A few proponents see vote-by-mail as the democratic dream of the broadest possible electorate. But opponents (and they are in the majority) envision it as a nightmare of ballots lost in the mail, ballots stolen from mail boxes, and a postal system operating far beyond its capacity.

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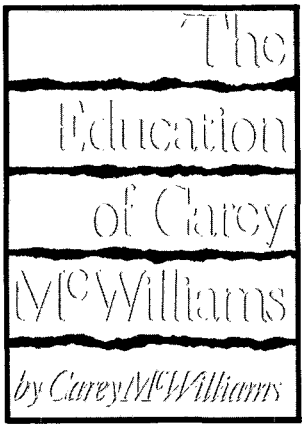

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By Leo Rennert

The day Jerry announced

When Jerry Brown announced his candidacy for president at the National Press Club, he was asked to compare his liabilities with those of President Carter and Senator Kennedy. Carter is seen as an incompetent, Kennedy has to deal with Chappaquiddick and "you're the Cloud Nine candidate," a reporter told Brown. Without a moment's hesitation, the governor replied: "If I had to choose . . ." He paused as the audience broke up, then added: ". . . I'd take the latter."

THERE WAS MORE TO THIS repartee than just a glib answer -- or even a demonstration that Brown is quicker on his feet than his two opponents. The governor's belief that his reputation as a flake will count for less than Carter's failure to stem inflation or Kennedy's inability to shake Chappaquiddick is at the very heart of his strategy. In this David-against-two-Goliaths contest, Brown is betting less on his own strength and more on the weakness of the other two. In fact, Brown's longshot quest for the nomination is based on little else than a prayer and a hope that a furious Carter-Kennedy struggle will sideline one or the other — leaving the governor to pick up the pieces. Even with a third-place finish in the scramble for delegates, just think of Brown's maneuvering possibilities if either Carter or Kennedy needed a handful of delegates to go over the top. It's a nightmarish thought for Vice President Mondale. Brown says voters will have to "imagine the unimaginable" in 1980. How about Carter-Brown? Or Kennedy-Brown?

The big question is whether Brown will have sufficient staying power to make it to the convention. The odds are against it. But the governor has confounded the experts before. His initial forays into New England have drawn good turnouts and receptive audiences. The highly negative image painted by the press has turned into a plus. It's precisely because audiences have been conditioned by the media to expect a weird character that they're pleasantly surprised to find a candidate who, in an articulate and thoughtful manner, seems to be grappling with tomorrow's issues. Brown's sharp criticism of the oil companies, nuclear power, the medical profession, the defense budget, foreign imports and America's waning influence strike highly responsive chords. He's beginning to discover a constituency that, according to all the rating sheets, should be locked up for Kennedy — but isn't. Brown is trying to position himself as the lone outsider with fresh ideas against two insiders still wedded to "dying myths." He's stealing Carter's anti-Establishment strategy of 1976 and, so far, Kennedy isn't even crying thief.

Still, while Brown can take a measure of comfort from his opponents' handicaps, his own problems are not exactly miniscule either. The biggest blow has been Kennedy's earlier-than-expected entry into the contest. Brown's initial strategy hinged on Kennedy staying on the sidelines for at least a few more months. That would have permitted the governor to align himself with ABC (Anyone But Carter) coalitions and use pro-Kennedy fervor to fuel his own charge against the President. With a few victories against Carter, Brown could have emerged quickly as a credible contender. By the same token, Kennedy would have looked like an envious Johnny-come-lately by the time he got into the fray — a replay of the Gene McCarthy-Robert Kennedy story of 1968. However, the senator's early timetable changed all that. It deprived Brown of an opportunity to join forces with other anti-Carter elements in the early stages. As a result, the governor had to scrap plans to participate in the Iowa caucuses in January — the first real test in the scramble for delegates. Iowa now looms as a straight two-way contest between Carter and Kennedy. More importantly, Kennedy's early candidacy dealt a devastating blow to Brown's money-raising efforts. Anti-Carter contributions which otherwise might have gone to the governor are flowing copiously into Kennedy's campaign coffers. Money has become Brown's biggest headache. There is grumbling in the ranks that his finance chief, Richard Silberman, waited too long to organize a solid fund-raising drive. Brown, who never lacked adequate financial support in past campaigns, suddenly has to devote a good share of his own time to hurried meetings with potential contributors. With Kennedy skimming most of the anti-Carter money in the party, it's become a Catch-22 situation for Brown. He can't expect to make a good showing in the early primaries in New England without an adequate media budget. But he can't get enough money because many contributors are holding off until after they see how he makes out in New England.

Lack of funds and organization will likely force Brown out of the March 11th Florida primary. While Carter and Kennedy fight it out in that state, Brown may go for broke in the March 18th primary in Illinois or a week later in New York. Perhaps the best sign of Brown's meager resources is the fact that his campaign strategists are talking about running either in Illinois or New York — but not in both.

Unlike 1976, when he showed that he could be formidable in a few sprints, Brown views 1980 as an endurance test, a marathon in which he's prepared to pursue the front-runners and wait for the right opening to make his move. The governor also is betting that he can rally a basically apathetic and frustrated electorate behind his futuristic banner. It's a tall order. To pull it off, he still has his old bag of political tricks — a peculiar mixture of the conventional and the unconventional.

WHILE TEDDY MADE HIS PRESIDENTIAL announcement in Boston surrounded by the entire Kennedy clan, Brown's declaration was staged as a strictly solo appearance in the ballroom of the National Press Club. The governor's parents deliberately were kept away to underscore the contrast between Brown's determination to be his own man and the senator's reliance on Camelot and the Kennedy mystique. Or as one Brown strategist put it: "Jerry didn't have to get his Mama's permission to run." Not a single member of California's Democratic congressional delegation showed up for Brown's kick-off. After offering himself as a new-breed politician, Brown immediately had an old-fashioned political huddle with a key labor supporter, George Hardy, president of the Service Employees International Union. The governor then was driven off in a shiny, sleek automobile. Upon closer examination, it turned out to be — you guessed it — a Plymouth.

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— William E. Borah

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